



Notice of City Council Workshop Meeting

January 29, 2025 at 3:00 PM

NOTICE IS HEREBY GIVEN that a Meeting of the Montgomery City Council will be held on **Wednesday, January 29, 2025, at 3:00 PM** at Montgomery ISD Admin Building, 20774 Eva Street, Montgomery, Texas.

THIS MEETING WAS POSTED PURSUANT TO THE TEXAS OPEN MEETING ACT
V.T.C.A. GOVERNMENT CODE CHAPTER 551.

Members of the public may view the meeting live on the City's website under Agenda/Minutes and then select **Live Stream Page (located at the top of the page)**. The meeting will be recorded and uploaded to the City's website.

OPENING AGENDA

1. Call Meeting to Order.
2. Pledges of Allegiance.

PUBLIC FORUM

The City Council will receive comments from the public on any matters within the jurisdiction of the City of Montgomery, Texas. Speakers will be limited to three (3) minutes each. Persons wishing to participate (speak) during the Public Forum portion of the meeting must sign-in to participate prior to the meeting being called to order. Please note that the City Council's discussion, if any, or subjects for which public notice has not been given, are limited to statements of specific factual responses and recitation of existing policy.

WORKSHOP AGENDA

All Workshop items on the agenda are for discussion only, no action will be taken.

3. Discussion, coordination, alignment, and collaboration workshop with status updates from Kendig Keast Collaborative, Retail Strategies, and Ardurra / Kimley Horn.

COUNCIL INQUIRY

Pursuant to Texas Government Code Sect. 551.042, the Mayor and Council Members may inquire about a subject not specifically listed on this Agenda. Responses are limited to the recitation of existing policy or a statement of specific factual information given in response to the inquiry. Any deliberation or decision shall be limited to a proposal to place on the agenda of a future meeting.

CLOSING AGENDA

4. Adjourn.

The City Council for the City of Montgomery reserves the right to adjourn into executive session at any time during the course of this meeting to discuss any of the matters listed below, as authorized by the Texas Government Code Sections 551.071 (Consultation with Attorney), 551.072 (Deliberations about Real Property), 551.073 (Deliberation Regarding Prospective Gifts), 551.074 (Personnel Matters), 551.076 (Deliberations regarding Security Devices), and 551.087 (Deliberation regarding Economic Development Negotiations).

I, Ruby Beaven, certify that this notice of meeting was posted on the website and bulletin board at City Hall of the City of Montgomery, Texas, a place convenient and readily accessible to the general public at all times. This notice was posted at said locations on the following date and time: **January 24, 2025 by 3:00 p.m.** and remained so posted continuously for at least 72 hours preceding the scheduled time of said meeting.

/s/ Ruby Beaven

City Secretary

This public notice was removed from the official posting board at the Montgomery City Hall on the following:

Date: _____ Time: _____

By: _____
City Secretary's Office
City of Montgomery, Texas

This facility is wheelchair accessible and accessible parking spaces are available. Please contact the City Secretary's office at 936-597-6434 for further information or for special accommodation.

Montgomery City Council
AGENDA REPORT

Meeting Date: January 29, 2025	Budgeted Amount: N/A
Department: Planning and Zoning	Prepared By: Corinne Tilley

Subject

Discussion, coordination, alignment, and collaboration workshop with status updates from Kendig Keast Collaborative, Retail Strategies, and Ardurra / Kimley Horn.

Discussion

Introduction of Participants

- Mayor and City Council Members
- Planning and Zoning Commission Members
- Montgomery Economic Development Corporation Members
- City Staff (including City Attorneys and WGA Engineers)
- Agency Representatives:
 - Kendig Keast Collaborative
 - Retail Strategies
 - Ardurra / Kimley-Horn

Objective - Importance of Alignment and Collaboration

Status Updates

- **KKC, Retail Strategies, Ardurra**
 - Current Progress
 - Key Milestones
 - Upcoming Tasks and Deadlines

Discussion and Feedback

- Questions and Comments
- Concerns and Challenges

Next Steps

- Key Takeaways
- Action Items and Responsibilities
- Setting Timelines and Deadlines

Closing Remarks - Final Thoughts

Approved By

Interim City Administrator	Anthony Solomon	Date: January 24, 2025
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CHAPTER 78 SUBDIVISIONS¹

Contents:

ARTICLE I. IN GENERAL

Sec. 78-1. Definitions.

Amending plat

Building setback restriction

City engineer

Develop

Developer

Development

Extraterritorial jurisdiction (ETJ)

Flag lot

Minor plat

Owner

Planning and zoning commission

Plat

Site plan

Subdivision

Vegetation setback

Visual barrier

Sec. 78-2. Penalty.

Sec. 78-3. Purpose; statutory authority; territorial jurisdiction.

Sec. 78-4. Applicability.

Secs. 78-5—78-26. Reserved.

ARTICLE II. ADMINISTRATION

Sec. 78-27. Filing fees.

Sec. 78-28. Variances.

Secs. 78-29—78-59. Reserved.

ARTICLE III. PLATS

Sec. 78-60. Preliminary plat.

Sec. 78-61. Final plat.

Sec. 78-62. Minor plats.

Sec. 78-63. Re-plats.

Sec. 78-64. Development plats.

Secs. 78-65—78-86. Reserved.

ARTICLE IV. GENERAL DESIGN STANDARDS

Sec. 78-87. Streets.

Sec. 78-88. Lots.

Sec. 78-89 Blocks.

Sec. 78-90. Building lines.

Sec. 78-91. Alleys.

Sec. 78-92. Easements.

Sec. 78-93. Reservations.

Sec. 78-94. Use of on-site sewerage facilities.

Sec. 78-95. Compensating open space requirements.

Sec. 78-96. Parking requirements.

Sec. 78-97. Traffic flow between adjacent parking lots.

Secs. 78-98—78-122. Reserved.

ARTICLE V. ENGINEERING AND CONSTRUCTION STANDARDS

Sec. 78-123. General policies regarding improvements; payment of costs of improvements.

Sec. 78-124. Engineering and specifications for construction.

Sec. 78-125. Streets.

Sec. 78-126. Drainage and storm sewers.

Sec. 78-127. Sanitary sewer system.

Sec. 78-128. Water system.

Sec. 78-129. Sidewalks.

Sec. 78-130. Submission of as-built plans of completed improvements.

Sec. 78-131. Maintenance bond.

Secs. 78-132—78-160. Reserved.

ARTICLE VI. VISUAL BARRIERS AND SETBACK REQUIREMENTS

Sec. 78-161. Applicability.

Sec. 78-162. Required setbacks.

ARTICLE VII. TREE PRESERVATION AND REPLACEMENT

Sec. 78-163. Findings and intent.

Sec. 78-164. Definitions.

Caliper

Canopy area

City administrator

City engineer

Critical root zone

Diameter at breast height (DBH)

Protected tree

Tree preservation plan

Urban Forest Technical Manual

Woodland tree stand

Sec. 78-165. Applicability and exceptions.

Sec. 78-166. General tree preservation standards.

Sec. 78-167. Tree assessment.

Sec. 78-168. Tree removal and replacement.

Sec. 78-169. Tree installation and maintenance.

Sec. 78-170. Penalties for violation.

Sec. 78-171. Mitigation and relief from from standards.

Sec. 78-165. Technical standards and specifications.

Sec. 78-167 Minimum tree canopy required for development.

Sec. 78-168 Canopy measurement.

Sec. 78-169 Additional requirements for residential development.

Sec. 78-170. Tree preservation adjoining residential property.

Sec. 78-171. Parking lot trees.

Sec. 78-172. Permit required for removal of protected tree.

Sec. 78-173. Protected tree removal permit.

Sec. 78-174. Pre-development planning and clearing permits.

Sec. 78-176. New and replacement trees.

Sec. 78-177. Accommodations of development standards.

Sec. 78-178. Protection of critical root zone during construction.

Sec. 78-179. Post-development maintenance and replacement.

Sec. 78-180. Variance procedure.

Sec. 78-181. Mitigation payments in lieu of preservation or planting.

Sec. 78-182. Tree mitigation fund.

Sec. 78-184. Fees.

Untitled

ARTICLE VIII. LANDSCAPING REQUIREMENTS FOR ALL ZONING DISTRICTS

Sec. 78-185. Definitions.

Berm

Sec. 78-186. Purpose.

Sec. 78-187. Applicability; variances.

Sec. 78-188. Landscape plan approval.

Sec. 78-189. Residential subdivision perimeter fences and walls.

¹State Law reference—Regulation of subdivision and property development, V.T.C.A., Local Government Code ch. 212.

ARTICLE I. IN GENERAL

Sec. 78-1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Amending plat means a revised plat correcting errors or making minor changes to a recorded plat pursuant to V.T.C.A., Local Government Code § 212.016.

Building setback restriction means a defined area designated on a subdivision plat in which no building or structure may be constructed and which is located between the adjacent street right-of-way line or other type of easement or right-of-way line and the proposed building.

City engineer means the registered professional engineer employed or designated by the city to provide professional engineering services for and on behalf of the city.

Develop means the act of improving and selling or using land for the purpose of constructing improvements thereon, to be sold or leased to others or otherwise handled for the personal gain or use of a developer.

Developer means a person, firm, corporation or any legal entity, whether one or more or a combination of one or more, engaged in a business of improving and selling or using land for the purpose of constructing improvements thereon, to be sold or leased to others or otherwise handled for their own personal gain or use.

Development means the man-made change to improved or unimproved real estate, including, but not limited to, the new construction or the enlargement of any exterior dimensions of any building or structures (excluding landscape structures), dredging, filling, grading, paving, excavation, clearing, or subdivision of property.

Extraterritorial jurisdiction (ETJ) means the unincorporated territory extending one-half of a mile beyond the corporate limits of the city, and contiguous to the corporate limits of the city, which has been established as a result of the provisions of the Texas Municipal Annexation Act, V.T.C.A., Local Government Code ch. 43 , and the state subdivision acts.

Flag lot means a lot that is divided in such a way that the main part of the property is set back at some distance from a roadway, which has a narrow portion of the property extending to the roadway primarily intended for access to the main part of the property.

Minor plat means a plat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities, which meets all other standards required of other plats.

Owner means the person designated as the owner of record of the property to be subdivided or platted.

Planning and zoning commission means the planning and zoning commission of the city formed by city council ordinance and appointment.

Plat.

Development plat means a map or drawing that complies with the provisions of section 78-64 of this chapter.

Final plat means a map or drawing of a proposed subdivision prepared in a manner suitable for recording in the records of the county containing accurate detailed engineering data, dimensions, dedicatory statements, and certificates, and prepared in conformance with the conditions of preliminary approval previously granted by the planning and zoning commission.

Preliminary plat means a map or drawing of a proposed development to illustrate the features of the development for review and approval by the planning and zoning commission but not suitable for recording in the county records.

Re-plat means the re-subdivision of an existing recorded subdivision together with any change of lot size therein or the relocation of any street line.

Site plan means a site development plan showing the use of the land, including existing and proposed locations of buildings, drives, sidewalks, parking areas, drainage facilities, and other structures.

Subdivision means the division of a tract or parcel of land into two or more parts or lots for the purpose, whether immediate or future, of sale or building development or transfer of ownership, and shall include resubdivision. Subdivision shall not become valid until approved by the city council and recorded in county records.

Vegetation setback means a maintained land area separating different zoning classifications or uses.

Visual barrier means a continuous unbroken and solid screen of masonry construction, or fencing, natural hedge or vegetation at maturity (two years), or a combination thereof, of not less than six feet measured from the existing natural ground level. Non-vegetative barriers must be a maximum of eight feet in height measured from the existing natural ground level. Vegetation must consist of any combination of trees, shrubs, berms, or other natural flora. The visual barrier improvements shall be adequate to accommodate the proposed screening, and must be a minimum of one foot in width for non-vegetative screening and five feet in width for vegetative screening, provided it creates a visual barrier. The city shall not be responsible for the maintenance of required screening. Deed restrictions and covenants, if any, filed of record and running with the land for any tract, shall make provisions for a maintenance entity authorized to provide maintenance of the visual barrier improvements through assessment of the costs thereof to lot owners.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-2 Penalty.

No person shall subdivide or develop land until a valid subdivision plat or development plat exists in compliance with this chapter. Any person violating this chapter or any portion thereof shall, upon conviction, be guilty of a misdemeanor and be punished as provided for in section 1-13.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-3 Purpose; statutory authority; territorial jurisdiction.

(a) Under the authority of V.T.C.A., Local Government Code ch. 212 , which provisions are hereby made a part of this chapter, the city council does hereby adopt the regulations in this chapter to control the subdivision

and/or development of land within the corporate limits of the city and the extraterritorial jurisdiction of the city, in order to provide for the orderly development of the area to secure adequate provision for traffic, light, air, recreation, transportation, water, drainage, sanitary sewers, and other facilities, and under the authority of V.T.C.A., Local Government Code chs. 42 and 43 , which provisions are hereby made a part of this chapter, the city council does hereby adopt the regulations in this chapter as to the extent of extraterritorial jurisdiction.

- (b) Any owner of land located inside of or within the corporate limits of the city or within the extraterritorial jurisdiction of the city wishing to subdivide or develop such land shall submit to the planning and zoning commission a preliminary and final plat of the subdivision, or submit to the city a development plat, if the owner is not subdividing, of the development, which shall conform to the minimum requirements set forth in this chapter. It is urged that informal discussions be held between the developer, the city officials and the city engineer to ensure compliance with the basic requirements and to arrive at a coordinated plat layout.
 - (c) No subdivision plat shall be filed or recorded and no lot in a subdivision inside of the corporate limits of the city or within the extraterritorial jurisdiction of the city shall be improved, developed or sold until the final plat shall have been approved by the city council. The city shall have the authority to prohibit the installation of public utilities in unapproved streets and easements and to prohibit the issuance of building permits for structures on lots abutting on unapproved streets. The final plat must be approved by the city council.
 - (d) Water and sanitary sewer service will not be available to any property that has not been platted.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-4 Applicability.

- (a) This chapter shall govern every person owning any tract of land within the corporate limits of the city or within the extraterritorial jurisdiction of the city who may hereafter:
 - (1) Divide the land into two or more parts for the purpose of laying out any subdivision of any tract of land or any addition to the city;
 - (2) Divide the land into two or more parts for laying out suburban lots or building lots, streets, alleys, parks, or other portions intended for public use, or for construction of any commercial, public or residential structure on the land; or
 - (3) Develop any tract or parcel of land unless said tract or parcel of land has been previously subdivided and platted.
- (b) A division of land under this section does not include a division of land into parts greater than five acres, where each part has access and no public improvement is being dedicated (V.T.C.A., Local Government Code § 212.004 (a)).
- (c) A division of land under this section does not include a minor plat involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal facilities which meets all other standards required of other plats (V.T.C.A., Local Government Code § 212.0065).
- (d) The planning and zoning commission may allow the conveyance by metes and bounds of one or more portions of previously platted property without the necessity of a re-plat if:
 - (1) Each part has access to a public street;
 - (2) Any resulting part which is less than the required minimum lot size is to be conveyed to the owner of an abutting property, and when combined with the abutting property will comprise a parcel which is not less than the required minimum lot size under this chapter;
 - (3) No dedication of public improvements is required in connection with the division;

- (4) The requested division, considered in conjunction with other pending or reasonably anticipated requests, will not substantially alter a previously approved pattern of development; and
- (5) The general purposes of this chapter may be served without the necessity of re-platting.
- (e) The authority to approve amending plats described by V.T.C.A., Local Government Code § 212.016 , minor plats involving four or fewer lots fronting on an existing street and not requiring the creation of any new street or the extension of municipal utilities, development plats, and a re-plat under V.T.C.A., Local Government Code § 212.0145 that does not require the creation of any new street or the extension of municipal facilities, is hereby delegated to the mayor, city administrator, city secretary and city engineer. Upon approval of any such plat by any one of such officers or employees, the city administrator and city engineer shall sign such plat on behalf of the city.
- (f) The person to whom the amending plat, minor plat or re-plat is presented for approval may, for any reason, elect to present the plat for approval to the municipal authority responsible for approving plats.
- (g) The person to whom the amending plat, minor plat or re-plat is presented for approval shall not disapprove the plat and shall be required to refer any plat which such person refuses to approve to the municipal authority responsible for approving plats within the time period specified in this chapter.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-5—78-26 Reserved.

ARTICLE II. ADMINISTRATION

Sec. 78-27 Filing fees.

- (a) The fees and charges shall be paid into the general fund of the city when any map or plat is tendered to the city engineer. Each of the fees and charges provided in this section shall be paid in advance, and no action of the city council, the planning and zoning commission or the city engineer or any city agency shall be valid until the fees shall have been paid. The city engineer, deputies or assistants shall calculate the fees and charges according to the current established schedule or as hereafter adopted by resolution of the city council from time to time.
- (b) These fees shall be charged on all plats regardless of the action taken by the city council. These fees are subject to change without notice.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-28 Variances.

When a subdivider or developer can show that a provision of this chapter would cause unnecessary hardship if strictly adhered to, or where because of some condition peculiar to the site or the unique nature of the development compliance with this chapter is not consistent with or required by good engineering and planning practices, and if in the opinion of the city council, planning and zoning commission and the city engineer, a departure from this chapter may be made without destroying the intent of this chapter, the city council may authorize a variance.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-29—78-59 Reserved.

ARTICLE III. PLATS

Sec. 78-60 Preliminary plat.

- (a) *Required.* A preliminary plat of any proposed subdivision shall be submitted to the planning and zoning commission and approved before the subdivider proceeds with the final plat for recording, except in the case of minor plats.
- (b) *Scale; contents.* The preliminary plat shall be drawn to a scale of one inch equals 200 feet, one inch equals 100 feet, one inch equals 50 feet, one inch equals 40 feet, or one inch equals 20 feet. The preliminary plat shall contain at least the following information:
- (1) *Existing features inside the platted area.*
 - a. The existing boundary lines of the land to be platted. Boundary lines shall be drawn in heavy for easy identification. Boundary lines shall be clearly tied to a minimum of two city monuments.
 - b. The location of all existing easements, pipelines, wells, watercourses, railroads, streets, and other similar drainage and transportation features.
 - c. The location and width of all existing streets, alleys, easements, buildings, and structures.
 - d. Topographical information with contour lines of two-foot intervals maximum, based on a datum approved by the city engineer.
 - e. Elevation of the 100-year floodplain and the extent, if any, that this occurs within the plat.
 - f. Location of any floodway within the plat.
 - g. Total acreage of platted area.
 - (2) *Existing features outside of the platted area.*
 - a. The names and property lines of all adjoining property owners.
 - b. The names and location of adjacent subdivisions, streets, easements, pipelines, watercourses, etc., within 100 feet of the plat boundary, with recording information on easements, streets, etc.
 - c. All lines outside of the proposed subdivision are to be dashed.
 - (3) *New features inside of the subdivision.*
 - a. The proposed name of the subdivision.
 - b. The location, width and names of proposed street rights-of-way, along with pavement widths.
 - c. Width and depth of all lots. If the side lot lines are not parallel, the distance between them at the building setback line and at the narrowest point should be given.
 - d. Location of building lines, vegetation barriers, alleys, and easements.
 - e. Location and approximate size of sites for schools, churches, parks, and other special land uses and vegetative barriers, where required.
 - f. The area, in square feet and acres, of each of the subdivided parcels.
 - (4) *Key map.* A key map showing the relation of the subdivision to major streets in all directions for a distance of at least one mile.
 - (5) *Title.* The date, scale, north arrow, title under which the plat is to be recorded, appropriate legal descriptions such as survey name and abstract, the name of the owner, and the name of the engineer or surveyor platting the tract.

- (c) *Submission.* The owner shall furnish the city planning and zoning commission 14 days or more before the regular meeting of the planning and zoning commission with:
- (1) A portable document format (PDF) digital copy of the preliminary plat.
 - (2) A minimum of ten legible prints of the preliminary plat.
 - (3) Ten copies of a letter of transmittal stating briefly the type of street surfacing, drainage, sanitary facilities and water supply proposed, and the name, address, email address and telephone number of the owner and engineer or surveyor.
 - (4) A title letter or certificate as defined in section 78-61(f).
 - (5) The preliminary plat fee.
- (d) These documents shall be transmitted to the city engineer.
- (e) *Approval.* The planning and zoning commission shall approve, conditionally approve, defer or disapprove within 30 days any preliminary plat submitted to it. Approval of the preliminary plat shall not constitute final acceptance of the plat. Failure to act within 30 days of the regularly scheduled meeting at which the plat would have been submitted shall constitute approval by the planning and zoning commission unless additional time is requested from the developer. After preliminary approval and final approval by the planning and zoning commission, the final plat shall then be sent to the city council for final approval. Reasons for the disapproval or conditional approval or deferral shall be put in writing attached to one copy of the plat and returned to the person submitting the plat. Preliminary approval will expire 12 months after the approval of the planning and zoning commission of the preliminary plat or the final sections thereof except that, if the subdivider shall apply in writing prior to the end of such 12-month period stating reasons for needing the extension, this period may be extended for another 12 months, but not beyond the total of two years.
- (f) *Disapproval.* If any such plat is disapproved by the city council, such disapproval shall be deemed a disapproval of the offered dedication shown therein.
- (g) *Fee.* The fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-61 Final plat.

- (a) *Generally.* After the approval of a preliminary plat by the planning and zoning commission, two sets of construction plans for public facilities shall be submitted to the city and a final plat showing an actual field boundary survey of the tract prepared by a registered public surveyor and bearing his seal shall be submitted to the planning and zoning commission by filing at city hall. The plat shall have all changes and alterations made on it that were required on the previously submitted preliminary plat.
- (b) *Sheet size and scale.* All final plats shall be drawn on reproducible sheets 20 inches by 24 inches and to a scale of one inch equals 100 feet. Where more than one sheet is required, an index sheet of a maximum size of 20 inches by 24 inches shall be filed showing the entire subdivision at a suitable scale.
- (c) *Contents.* The final plat shall contain the following information:
- (1) *Existing features inside the subdivision.*
 - a. The existing boundary lines of the land to be subdivided. Boundary lines shall be drawn in heavy for easy identification.
 - b. The location of all existing watercourses, railroads, easements, pipelines, wells and other similar drainage and transportation features.

- c. The location of the 100-year floodplain and floodway according to the most recent best available data.
 - d. The location of all the existing streets, alleys, and easements, buildings and structures to be retained and to be removed.
- (2) *Existing features outside of the subdivision.*
- a. The names and property lines of adjoining subdivisions and of the adjoining property owners together with the respective plat or deed references.
 - b. The name and location of adjacent streets, alleys, easements, watercourses, etc., within 100 feet of the plat boundaries.
 - c. All lines outside of the plat subdivision boundaries are to be dashed.
- (3) *Streets, alleys, and easements.* The lines and names of all proposed streets or rights-of-way or easements to be dedicated to public use with the following engineering data:
- a. For streets, provide complete curve data, central angle, tangent, degrees of curvature shown on the centerline or on each side of the street, provide length and bearing of all tangents, and furnish dimensions of all angle points of curve to an adjacent side lot line.
 - b. For watercourses and easements, provide the distance along the side lot line from the front lot line on the high bank of the stream, and provide a traverse line along the edge of all large watercourses in a convenient location, preferably along the utility easements if paralleling the drainage easement or stream.
- (4) *Name and acreage.* Name of subdivision and total acreage.
- (5) *Lots and blocks.* The lines and numbers of all proposed lots and blocks with complete bearings and dimensions for front, rear, and side lot lines along with areas in square feet and acres.
- (6) *Setback lines and vegetation barriers.* Building setback lines and vegetation barriers, which shall be shown on all lots.
- (7) *Reservations.* The use and property dimensions for all special reservations, including sites for schools, churches, parks, and reserves.
- (8) *Monument and control points.*
- a. State on the plat what was found/set at all boundary corners of the tract being subdivided
 - b. All plats shall be tied to two city monumentation control points and state which monuments were used. Reference bearings to a city monument.
 - c. No final plat may be approved until actually surveyed upon the ground by, or under the supervision of, a registered professional land surveyor. The surveyor shall set, or leave as found, sufficient, stable and reasonably permanent markers to represent or reference the property or boundary corner, angle points, and points of curvature or tangency of a tract being subdivided. All survey marks shall be shown and described with sufficient evidence of the location of such markers on the plat.
 - d. One permanent monument with x, y, and z shall be placed within the boundaries of each new subdivision. Elevation benchmarks should be placed within a dedicated street right-of-way, but outside of the paved portion of the roadway, with the location of such benchmark reflected upon the plat. The benchmark shall consist of a three-inch brass disk set in a concrete column six inches in diameter and three feet deep and buried with the top flush with the natural grade. The disc shall be stamped with the surface elevation as determined from a known benchmark based on city monumentation and shall also bear the subdivision name and section number, if any.

- e. Lot corners, street intersections, angle points, and street alignment monumentation must be installed prior to final acceptance of the subdivision.
 - f. Benchmarks shall be based on the City of Montgomery Control System and related to at least two of those published monuments. The plat shall indicate which City of Montgomery Control monuments were recovered and which one was used to set the plat benchmark elevation. Measured elevation differentials between specific City of Montgomery Control monuments that are greater than 0.1 foot relative to the differential in the published elevations of those monuments shall be communicated to the City of Montgomery City Engineer.
 - g. The requirement to set a new subdivision elevation benchmark is waived if a Texas Department of Transportation elevation benchmark, a City of Montgomery elevation benchmark or a previously set elevation benchmark within an existing recorded subdivision is located within 500 feet of the proposed subdivision plat boundary and the stamped elevation of the existing benchmark is referenced to the city's published datum. The location and description, including the elevation and datum of the existing benchmark to be used shall be reflected upon the plat.
- (9) *Certificates of approval.* The following will be placed on the face of the plat in addition to the requirements of the county. Each final plat must bear the owner's certification and dedication statement, signed and acknowledged, in substantially the following form:

OWNER'S CERTIFICATION AND DEDICATION

STATE OF TEXAS	§
COUNTY OF MONTGOMERY	§

That (Owner's name) herein acting individually or through the undersigned duly authorized agents, does hereby adopt this plat designating the herein described real property as the _____ Subdivision, and does hereby make subdivision of said property according to the lines, streets, alleys, parks, and easements therein shown, and dedicate to public use forever all areas shown on this plat as streets, alleys, parks, and easements, except those specifically indicated as private; and does hereby waive any claims for damages occasioned by the establishing of grades as approved for the streets and alleys dedicated, or occasioned by the alteration of the surface of any portion of streets or alleys to conform to such grades and does hereby bind Owner, and Owner's successors and assigns to warrant and forever defend the title to the land so dedicated.

Owner hereby certifies that Owner has or will comply with all applicable regulations of the city, and that a rough proportionality exists between the dedications, improvements, and exactions required under such regulations and the projected impact of the subdivision.

WHERE PRIVATE STREETS ARE DEDICATED ADD:

Where streets or alleys are dedicated for private use, such dedication shall include an easement covering the street area which permits the installation, operation and maintenance of water, sewer, gas, electric, telephone, cable television or other such utility facilities by the city and other utilities lawfully entitled to provide service to the abutting property. The easement shall also provide a right of access to public agencies engaged in both routine and emergency public services including law enforcement, fire protection, medical response, inspection and code enforcement.

The certification and dedication statement must be signed by each owner and acknowledged in the manner provided for the acknowledgement of deeds. If the number of owners makes it impractical for the signature of each such owner to appear upon the plat, then, the plat may be signed and acknowledged by an agent or attorney in fact on behalf of such owners, provided that a valid power of attorney or other appropriate instrument establishing such agency is filed in the real property records of the county.

KNOW ALL MEN BY THESE PRESENTS:

That I _____, do hereby certify that I prepared this plat from an actual and accurate survey of the land and that the corner monuments shown thereof were properly placed under my personal supervision, in accordance with the subdivision regulations of the City of Montgomery, Texas.

Signature and Seal of Registered
Professional Land Surveyor

I THE UNDERSIGNED, Engineer for the City of Montgomery, hereby certify that this subdivision plat conforms to all requirements of the subdivision regulations of the city as to which his approval is required.

City Engineer - Montgomery

This plat and subdivision has been submitted to and considered by the city planning and zoning commission, and is hereby approved by such commission.

Dated This ___ Day of _____, 20__.

By: _____

Chairperson Planning and Zoning
Commission

This plat and subdivision has been submitted to and considered by the city council of the City of Montgomery, Texas, and is hereby approved by such council.

Dated This ___ Day of _____, 20__.

By: _____

Mayor

ATTEST:

City Secretary

- (10) *Key map.* A key map showing the relation of the subdivision to major streets in all directions for a distance of at least one mile.
- (11) *Title block.* The date, scale, north arrow, and subdivision title, along with appropriate legal descriptions such as survey name and abstract, with the name of the owner and engineer or surveyor platting the tract.
- (12) *Dedications and certificates.* Such dedications and certificates as are applicable.

- (13) *Special restrictions.* Where restrictions of land use other than those given in this chapter are to be imposed by the subdivider, such restrictions shall be placed on the final plat or on a separate instrument filed with the plat.
- (14) *Off-site easements.* Provide recorded off-site easements with final plat submittal.
- (d) *Water, sewer, paving and drainage plans.*
- (1) Two sets of plans and specifications for water, sanitary sewers, storm sewers, paving and drainage prepared by a registered professional engineer must be submitted with the final plat. The aforementioned plans must also be submitted in an electronic format acceptable to the city. As noted in article V of this chapter, all developers will be required to retain services of a professional engineer for the design and inspection of all public utilities that the city will maintain after development occurs. A sealed utility letter report shall be submitted by the design engineer that explains how water and sewer service will be provided to each lot, and that states the design shown within the construction plans is in accordance with the latest requirements of the city design criteria manual. An analysis of the projected demand, connection point, future extension, over-sizing, and capacity in existing facilities shall be included. A land study shall be submitted showing water and sanitary sewer improvements necessary to cover all contiguous land owned or controlled by the developer. The subdivision plat cannot be approved by the city council for recordation until the city council approves construction plans for the subdivision.
- (2) Approval of construction plans shall expire 12 months after the approval of the city council except that the developer may apply, in writing, prior to the end of such 12-month period, for an extension of said approval, setting forth the reasons for the need for such an extension. The city council may, at its discretion, extend the approval period for an additional 12 months. However, in no event shall the city council approve construction plans beyond a total of two years from the date of approval.
- (e) *Tax receipt.* A receipt or tax certificate shall be submitted with the final plat showing that all taxes have been paid.
- (f) *Title letter or certificate.* A title letter or certificate from a title guarantee company or from an attorney duly licensed to practice law in the state shall be submitted certifying to at least the following concerning title to the land:
- (1) A statement of records examined and the date examined (within the last 60 days).
- (2) Description of the property by metes and bounds.
- (3) Name of the fee owner as of the date of examination along with the date, file number, volume, and page of the recording of the deed involved.
- (4) The name of any lienholder together with a date of filing, volume, and page of lien. A copy of the recorded document shall be provided.
- (5) A general description of any easement and fee strips granted along with the file number, date of filing, volume and page of such recording information. A copy of the recorded document shall be provided.
- (g) *Submission.* The planning and zoning commission shall be furnished with ten legible prints of the original tracing and a reproducible copy of the final plat and one copy of the plat in electronic form (Autocad or DXF format) ten days or more before the planning and zoning commission meeting. These documents shall be filed in the office of the city. City council shall also be furnished with ten legible prints of the original tracing and a reproducible copy of the final plat before the council meeting.
- (h) *Fee.* The fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time.

- (i) *Public facility construction guarantee.* A fiscal guarantee of 100 percent of the construction cost of water, sewer, pavement, drainage facilities, and all public facilities for the subdivision, as approved by the city engineer and city attorney, shall be provided to the city council and approved by city council prior to the final plat being approved and recorded. The construction cost shall be based on an opinion of cost sealed by a professional engineer and approved by the city engineer. The guarantee may be provided in the form of a cash escrow deposit, surety bond, or irrevocable letter of credit.
- (j) *Approval.* The city planning and zoning commission shall approve or conditionally approve, defer or disapprove, within 60 days, any final plat submittal. The city council shall approve or disapprove any final plat submitted within 30 days after the date the plat is approved by the planning and zoning commission. Final approval will expire one year after the city council action granting approval of any final plat unless the final plat has been filed for record, except that, if the subdivider shall apply in writing prior to the end of such one-year period stating reasons for needing extension, this period may, at the discretion of the city council, be extended for another year, but not beyond that period.

(Ord. No. 2011-09 , § 1, 7-26-2011; Ord. No. 2018-10 , § 1, 6-12-2018)

Sec. 78-62 Minor plats.

Minor plats shall contain all the information required of final plats as set forth in this chapter. Minor plats shall be submitted to the city and may be approved and signed by the city engineer and city administrator. The fee for a minor plat shall be as currently established or as hereafter adopted by resolution of the city council from time to time.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-63 Re-plats.

In addition to state law requirements as set out in V.T.C.A., Local Government Code ch. 212 , any re-platting shall follow the final platting rules as set forth in this chapter. A public hearing is required as directed by the Texas Local Government Code.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-64 Development plats.

- (a) Any person who proposes the development of a tract of land within the limits or extraterritorial jurisdiction of the city must have a development plat of the tract prepared in accordance with this chapter and the applicable plans, rules or ordinances of the city.
- (b) A development plat must be prepared by a registered professional land surveyor as a boundary survey showing:
 - (1) Each existing or proposed building, structure or improvement or proposed modification of the external configuration of the building, structure or improvement involving a change of the building, structure or improvement;
 - (2) Each easement and right-of-way within or abutting the boundary of the surveyed property; and
 - (3) The dimensions of each street, sidewalk, alley, square, park, or other part of the property which is intended to be dedicated to public use or for the use of purchasers or owners of lots fronting on or adjacent to the street, sidewalk, alley, square, park or other part of the property.

- (c) All proposed easements and dedications shown on a development plat shall be recorded by separate instrument.
- (d) A development may not begin on the property until the development plat is filed with and approved by the city in accordance with this chapter.
- (e) If a person is required under this chapter or a city ordinance to file a subdivision plat, a development plat shall not be required in addition to the subdivision plat.
- (f) Title letter or certificate. A title letter or certificate from a title guarantee company or from an attorney duly licensed to practice law in the state shall be submitted certifying to at least the following concerning title to the land:
 - (1) A statement of records examined and the date examined (within the last 60 days).
 - (2) Description of the property by metes and bounds.
 - (3) Name of the fee owner as of the date of examination along with the date, file number, volume, and page of the recording of the deed involved.
 - (4) The name of any lienholder together with a date of filing, volume, and page of lien. A copy of the recorded document shall be provided.
 - (5) A general description of any easement and fee strips granted along with the file number, date of filing, volume and page of such recording information. A copy of the recorded document shall be provided.
- (g) Submission. The city shall be furnished with four legible prints of the original tracing and one copy of the plat in PDF format and one copy of the plat in electronic form (Autocad or DXF format). A title letter or deed of trust shall be provided to provide evidence of ownership of the property to be developed.
- (h) Fee. The fee shall be as currently established or as hereafter adopted by resolution of the city council from time to time.
- (i) Approval. Development plats shall be submitted to the city and may be approved and signed by the city engineer and city administrator. Final approval will expire one year after the approval of any development plat, except that, if the developer shall apply in writing prior to the end of such one-year period stating reasons for needing an extension, this period may, at the discretion of the city council, be extended for another year, but not beyond that period. The development plat will not be signed by lienholders.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-65—78-86 Reserved.

ARTICLE IV. GENERAL DESIGN STANDARDS

Sec. 78-87 Streets.

- (a) *Street classification.* Streets shall be classified as follows:
 - (1) *Major streets.* State Highway 149, State Highway 105, FM 1097, Lone Star Parkway, and other streets shown on the thoroughfare plan, as city council may have adopted, are classified as major streets.
 - (2) *Commercial or secondary streets.* Commercial streets are streets platted for access to tracts where the zoning or land use is commercial, professional, light industrial or heavy industrial. Secondary streets are extensions of existing secondary streets or streets designated on the thoroughfare plan as secondary streets. Secondary streets are streets that serve as minor arterials in the transportation plan.

- (3) *Residential streets.* Residential streets are streets platted to serve residential lots that are not designated as secondary streets.
- (4) *Minor residential streets.* Minor residential streets are streets platted to serve residential lots where the pavement cross section is curb and gutter and the number of lots served is less than 50.
- (b) *Conformity to thoroughfare plan.* Subdivision layouts shall adhere to and substantially conform with the pattern, alignment, classification and ~~The width and location~~ of major and minor arterial and collector streets depicted by ~~the shall conform to such~~ thoroughfare plan adopted by ~~as~~ the city council. ~~may have adopted, if any, both as to the horizontal and vertical alignment of pavements and right-of-way widths.~~
 - (1) A proposed subdivision shall include street connections in the direction of the nearest existing or planned streets within one-half mile of the plat. The proposed subdivision shall also include street connections to any streets that abut, are adjacent to, or terminate at the plat.
 - (2) The proposed subdivision shall include streets that extend to undeveloped or partially developed land that is adjacent to the plat or that is separated from the plat by a drainage channel, transmission easement, survey gap, or similar property condition.
 - (3) The streets shall be in locations that will enable adjoining properties to connect to the proposed subdivision's street system.
 - (4) If where the plat to be submitted includes only part of the tract owned or intended for development by the subdivider, a tentative plan of a proposed future street system for unplatted portion shall be prepared and submitted by the developer. Where it is obvious a street from another development should continue across the planned development the plan shall provide for continuation of this street through the development.
- (c) *Marginal access streets.* Where a subdivision abuts or contains an existing or proposed arterial street, the city may require marginal access streets, reverse frontage lots with screen planting contained in a non-access reservation along the rear of the property line, or such other treatment as may be necessary for adequate protection of residential properties and to afford separation of through and local traffic.
- (d) *Relation to existing street system.* The proposed street system shall extend all existing major streets and such existing secondary and local access streets as may be desirable for convenience and circulation. Where possible, the width and the horizontal and vertical alignment of extended streets shall be observed primarily with respect to the thoroughfare plan of Montgomery County, the City of Conroe, and the City of Montgomery.
- (e) *Street jogs.* Where offsets of street alignment are in the opinion of the planning and zoning commission unavoidable, such offsets may be employed, provided the distance between centerlines is not less than 125 feet.
- (f) *Large lot subdivision.* If the lots in the proposed subdivision are large enough to suggest resubdivision in the future, or if part of the tract is not subdivided, consideration must be given to possible future street openings and access to future lots which could result from such resubdivision.
- (g) *Through traffic.* Local residential streets shall be designed so as to discourage high speed or through traffic.
- (h) *Topography.* The street system shall bear a logical relationship to the natural topography of the ground.
- (i) *Right-of-way widths.* Street right-of-way widths shall be measured from the front lot line to the front lot line of ~~opposite~~ lots on the opposite side of the street, as designated on the adopted Thoroughfare Plan, and shall be as follows:
 - (1) Major arterial streets, including the wide median and parkway alternates: ~~120~~100 feet., ~~or as designated on the thoroughfare plan.~~

- (2) Minor arterial street, including the parkway alternate: 100 feet.
- (3) Main street: 100 feet.
- (4) Collector street with marginal access: 100 feet. Commercial or secondary streets: 80 feet.
- (5) Parallel street parking: 60 feet.
- (6) Collector street with sidewalks or a combined trail: 60 feet.
- (7) Local Residential streets, rural: 60 feet.
- (8) Local Minor residential streets: 50 feet.

(j) *Horizontal alignment.* Horizontal curves in streets shall conform to the minimum radius and tangent requirements as follows:

Classification	Minimum radius	Minimum tangent
Major and minor arterial streets	2,000 feet	100 feet
Collector/Secondary streets	800 feet	100 feet
Local Residential streets	300 feet	50 feet
Minor residential streets	300 feet	50 feet

(k) *Cul-de-sacs.*

- (1) The maximum length of all cul-de-sacs shall be 600 feet, measured along the centerline from its intersection with the centerline of another street to the center of the turn-around right-of-way;
- (2) The minimum pavement radius of all cul-de-sacs shall be 60 feet;
- (3) The minimum right-of-way radius of all cul-de-sacs shall be 75 feet, which shall provide a minimum of 12 feet of right-of-way between all sides of the cul-de-sac turn-around pavement and adjacent properties;
- (4) Cul-de-sac landscape islands may be permitted by the Planning and Zoning Commission when it is determined that such islands can safely accommodate emergency vehicles and legal provision is established to properly maintain the islands. The maximum mature height of vegetation within a landscape island shall be 30 inches.
- (5) The intersection of the cul-de-sac street segment and cul-de-sac turnaround shall be rounded by a radii of at least 30 feet;
- (6) A sidewalk with a minimum width of five feet shall be provided around the entire turn-around of the cul-de-sac leaving a minimum of six feet for a tree lawn between the back of curb of the cul-de-sac pavement and the sidewalk;
- (7) Cul-de-sacs apply to local streets only;
- (8) A sidewalk shall be provided between two lots located on the turnaround of the cul-de-sac connecting the sidewalks adjacent to the turnaround with those on adjacent streets and/or within adjacent developments:
 - a. The sidewalk shall be a minimum of five feet in width and shall be located in an access easement which is a minimum of 10 feet in width;
 - b. The sidewalk shall be constructed consistent with the sidewalk construction standards provided in section 86-154; and

- c. Maintenance of the sidewalk shall be managed in the same means as common open space set out in Sec. 78-95, Compensating open space requirements.

(l) *Dead-end streets* ~~(cul-de-sacs)~~.

- (1) *Maximum length.* The maximum length of a dead-end street with a permanent turnaround shall be 800 feet, except in conditions of unusual topography.
- (2) *Temporary turnarounds.* Temporary turnarounds of 100 feet in diameter are to be provided at the end of streets more than 400 feet long that will be extended in the future. The following note should be placed on the plat: "Cross-hatched area is temporary easement for turnaround until street is extended (give direction) in a recorded plat."
- (3) *Prohibited in an historic overlay district.* Dead-end streets or cul-de-sacs are expressly prohibited in any area zoned and designated as an historic overlay district.

(m) *Intersections.*

- (1) *Angle of intersection.* Except where existing conditions will not permit, all streets shall intersect at a 90-degree angle. Variations of more than ten degrees on local access streets and more than five degrees on major or secondary streets must first be approved by the city in writing.
- (2) *Radius at acute corners.* Acute angle intersections approved by the planning and zoning commission are to have 25 feet or greater radii at acute corners.
- (3) *Centerline tie with existing streets.* Each new street intersecting with or extending to meet an existing street shall be tied to the existing street on centerline with dimensions and bearing to show the relationship.

- (n) *Partial or half streets.* Partial or half streets may be provided where the planning and zoning commission feels that a street should be located on a property line. The following note shall be used in all such dedications: "This ___-foot strip is dedicated as an easement for all utility street purposes when and insofar a ___-foot strip adjacent to it is so dedicated and the required improvements are installed." A suitable fiscal guarantee approved by the city council in the amount established by the city engineer shall be required from the developer for the construction costs of the half street within the plat.

- (o) *Reserve strips.* Provisional one-foot reserves may be used along the side or end of streets that abut acreage tracts, accompanied by a note on the plat as follows: "One-foot reserve to become automatically dedicated for street purposes when adjacent property is recorded in a plat."

- (p) *Monuments.* All street intersections, angle points, and street alignments of curves shall be monumented by the developer. Such monuments shall be of iron pipe not less than one inch in diameter and three feet long driven into solid ground or at finish grade of the street.

- (q) *Street names.* New streets shall be named so as to provide continuity of names with existing streets and so as to prevent conflict with identical or similar names in other parts of the county. All street names will be approved by the planning and zoning commission and the city council.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-88 Lots.

- (a) *Use.* All lots shown on the plat will be for residential purposes unless otherwise noted.
- (b) *Size generally.* Lot size shall be approved by the city council. On the basis of the appropriate zoning district in which they lie and the use to which they are to be put, all lots must conform to the regulations of the city council, including minimum area, width, and depth.

- (c) *Minimum width.* Minimum width is 75 feet. Radial lots on the inside of a curved street shall have a minimum width of 75 feet at and for a distance of 30 feet behind the building line. For radial lots on the outside of a curved street or cul-de-sac, the minimum width is established by measurement at the building line.
- (d) *Minimum depth.* Minimum depth is 120 feet.
- (e) *Minimum area.* Minimum area is 9,000 feet.
- (f) *Corner lots.* Corner lots with a width of less than 90 feet are to be at least five feet wider than the average of interior lots in the block. Corner lots with a width of less than 90 feet adjacent to a major thoroughfare are to be at least 15 feet wider than the average of interior lots in the block.
- (g) *Flag lots.* Flag lots may not be used under any circumstances.
- (h) *Lots on major streets.* Lots facing or backing on major streets shall be at least ten feet deeper than the average of lots facing on adjacent minor streets. Lots backing on major streets shall not have access to any major street.
- (i) *Lots on drainage easements.* Minimum usable lot depths for lots backing on natural drainage easements shall be not less than 80 feet measured between the front lot line and the drainage easement.
- (j) *Orientation of side lot lines.* Side lot lines should be perpendicular or radial to street frontage.
- (k) *Access to street; lot frontage.*
 - (1) Each lot shall be provided with adequate access to an existing or proposed public street by frontage on such street.
 - (2) Wherever feasible, each lot should face the front of a similar lot across the street. In general, an arrangement placing adjacent lots at right angles to each other should be avoided.
- (l) *Lot numbering.* All lots are to be numbered consecutively within each block. Lot numbering may be cumulative throughout the subdivision if the numbering continues from block to block in a uniform manner that has been approved on an overall preliminary plat.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-89 Blocks.

- (a) *Length.*
 - (1) *Residential lots.* Maximum block length for residential use shall be 1,400 feet, measured along the center of the block. Six hundred feet is a desirable minimum.
 - (2) *Lots on a major street.* Maximum block length along a major street shall be 1,800 feet, except under special conditions and upon approval of the city council.
- (b) *Width.* Blocks shall be wide enough to allow two tiers of lots of at least minimum depth, except when prevented by the size of the property or the need to back up to a major thoroughfare.
- (c) *Numbering.* Blocks are to be numbered consecutively within the overall plat.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-90 Building lines.

- (a) *Front street line.* The front building line shall not be less than 25 feet from the front property line, except, where the lots face on a major street, the front building line shall not be less than 35 feet from the front property line. New commercial structures or improvements being built in the historic downtown commercial area shall refer to section 98-351.

- (b) *Side street line.* The building line on the street side of corner lots shall not be less than 15 feet from the side street property line, except that, where the lots side on a major street, the building line shall not be less than 25 feet from the side street property line, and where the side of a corner lot is across the street from or adjacent to the front of other lots, the building line shall be at the same distance from the streets as the front building line of the opposite or adjacent lots.
 - (c) *Side and rear setbacks.* Side and rear setbacks vary depending on the zoning classification. These setbacks shall be in accordance with chapter 98. Vegetative setbacks may also apply and shall be in accordance with section 78-162.
 - (d) *Pipeline easements.* A 15-foot building setback line shall be provided on each side of any pipeline easement.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-91 Alleys.

- (a) *Width.* Where provided, alleys shall not be less than 20 feet in width.
 - (b) *Cut-offs.* In case of intersection alleys, a cut-off shall be required at each corner. Cut-offs shall be triangles having two equal sides, each of which shall be not less than ten feet in length.
 - (c) *Required alleys.* Alleys shall be required in all business areas and in those portions of new residential subdivisions where partial blocks are needed to complete existing blocks with alleys.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-92 Easements.

- (a) *Size.* The size of easements where alleys are not provided shall not be less than eight feet on each side of rear lot lines, with additional five feet aerial on each side beginning at a plane 20 feet above the ground. The full width of an easement shall be not less than 16 feet at ground level and not less than 26 feet above ground. The full width of a drainage easement containing a piped storm sewer line shall be not less than 16 feet. The full width of a drainage easement containing an open ditch drainage facility shall be not less than the width of the ditch top plus 12 feet.
 - (b) *Use.* Where necessary, easements shall be retained for power, telephone, cable TV, storm sewers, sanitary sewers, water lines, open drains, gas lines, or other utilities. Such easements may be required across parts of lots (including side lines) other than as described in this section if, in the opinion of the planning and zoning commission, such easements are needed.
- (Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-93 Reservations.

- (a) *Permitted purposes.* No land contained in the proposed subdivision shall be reserved for any use other than a use permitted by the city council for the zoning in which the land to be reserved is located.
- (b) *Designation on plat.* The specific use for which each piece of land is to be used must be shown by appropriate label or description on the plat, provided that land to be used for any purpose other than residential uses may, if the specific use is not known, be described as a restricted or unrestricted reserve.
- (c) *Parks and playgrounds.* The location and size of parks and playgrounds shall be in accordance with the city council's plan, if any, and with the requirements of the city council.
- (d) *Schools.* The location and size of schools shall be in accordance with the city council plan with respect to school location, if any, and with the requirements of the school district.

- (e) *Unrestricted reserves.* Reserves, tracts, or those individual parcels of land in the subdivision plat which are not divided into lots are established to accommodate some specific purpose such as a commercial center, industrial site, golf course, or other type of private facility. Since the use of reserve tracts cannot be completely determined by the subdivider or the developer at the time plats are prepared and submitted to the city planning and zoning commission, these reserved tracts may be established as "unrestricted reserve" which allows maximum flexibility in the determination of the ultimate use for such properties. All unrestricted reserves will be bound by a one-foot reserve within the adjacent street right-of-way which will not permit access to the reserve tracts before those plats are resubmitted to the city council or planning and zoning commission for re-platting.
- (f) *Restricted reserves.* Where a specific purpose is established for a reserve tract, such intended use must be noted and identified on the plat. The building of noted improvements within the restricted reserves require a site plan to be submitted to the planning and zoning commission and approved by the planning and zoning commission and city council before construction commences. Where public facilities or rights-of-way will be dedicated during future development of restricted reserves, a re-plat will be necessary of the restricted reserve.
- (g) *Minimum area.* Minimum area is 9,000 square feet.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-94 Use of on-site sewerage facilities.

No plat submitted for a preliminary or final plat shall be approved within the extraterritorial jurisdiction of the city with on-site sewerage facilities for sanitary sewage disposal or treatment unless no alternative source of wastewater disposal is available.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-95 Compensating open space requirements.

In those instances where proposed lots have an area less than the minimum established by the planning and zoning commission, compensating open space will be required and can be approved by the planning and zoning commission and city council. For planned unit development (PUD), compensating open space must be made available based on the density of development and in accordance with the general zoning requirements of the city. Such compensating open spaces remain undeveloped or landscaped and may be developed for recreational purposes within the PUD, both active and passive. They may be used to provide courtyard access from the groups or clusters of lots adjacent to public streets or for temporary stormwater detention structures within the planned stormwater facility plan of the city.

- (a) Open space parcels shall be convenient to the dwelling units they are intended to serve. However, because of noise generated by certain recreational activities, they shall be sited with sensitivity to surrounding development.
- (b) As a general principle, undeveloped open space should be left in its natural state. A developer may make certain improvements such as cutting trails for walking or jogging, equestrian use or the provision of picnic areas, etc. In addition, the Planning and Zoning Commission may require a developer to make other improvements, such as removing dead or diseased trees, thinning trees or other vegetation to encourage more desirable growth, and grading and seeding.
- (c) Any lands reserved for open space purposes shall contain appropriate covenants and deed restrictions approved by the City Attorney ensuring that:

- (1) The open space area will not be further subdivided in the future;
 - (2) The use of the open space will continue in perpetuity for the purpose specified;
 - (3) Appropriate provisions will be made for the maintenance of the open space; and
 - (4) Common undeveloped open space shall not be turned into a commercial enterprise admitting the general public at a fee.
- (d) The type of ownership of land dedicated for open space purposes shall be selected by the owner, developer, or subdivider, subject to the approval of the City Council. Type of ownership may include, but is not necessarily limited to, the following:
- (1) City of Montgomery, Montgomery County or a quasi-public organization subject to their discretion as to accepting the dedication of fee title or dedication of their discretion to accept the common open space provided that:
 - a. The common open space is accessible to the residents of the city and county;
 - b. There is access to maintain the common open space; and
 - c. Streets or other public ways have been constructed to city standards and have been inspected and approved by the city.
 - (2) Shared, undivided interest by all property owners in the subdivision;
 - (3) Property-owner, condominium, or cooperative associations or organizations, provided the developer shall file a declaration of covenants, conditions and restrictions or other suitable document that will govern the association, to be submitted with the application for the final plat approval. The provisions shall include, but are not necessarily limited to, the following:
 - a. The property-owners association shall be established before any lots are sold;
 - b. Membership shall be mandatory for each property owner;
 - c. The open space restrictions shall be permanent, not just for a period of years;
 - d. The association shall be responsible for liability insurance, local taxes, and the maintenance of recreational and other facilities;
 - e. Property owners shall pay their pro rata share of the cost, and the assessment levied by the association can become a lien on the property if allowed in the master deed establishing the property-owners association;
 - f. The property owners' association bylaws or the declaration of covenants, conditions and restrictions contain the following information:
 - i. The legal description of the common land;
 - ii. A description of common facilities;
 - iii. The restrictions placed upon the use and enjoyment of the lands or facilities;
 - iv. Persons or entities entitled to enforce the restrictions;
 - v. A mechanism to assess and enforce the common expenses for the land or facilities (e.g., utility systems, private roads and other public or quasi-public improvements) including upkeep and maintenance expenses, real estate taxes and insurance premiums;
 - vi. A mechanism for resolving disputes among the owners or association members;
 - vii. The conditions and timing of the transfer of ownership and control of land facilities to the association;
 - viii. Any other matter the developer deems appropriate.

- (e) Common open spaces within each development shall be linked with each other and with existing and future open spaces in adjacent developments through the required sidewalk system or through the use of pedestrian paths.
- (f) All common open spaces shall have at least 10 feet of frontage on a public street which includes sidewalks, and be linked to that sidewalk system by either a sidewalk or pedestrian path.
- (g) The open space shall be to the greatest extent practicable accessible to the general public and not for the exclusive use of a property owners' association or nonprofit organization.
- (h) The open space shall be suitable for and protected and maintained for wildlife habitat, conservation, historic preservation (landscapes and/or accessory structures), outdoor education, passive and active outdoor recreation, park and outdoor recreation purposes, agriculture, horticulture, forestry, and/or a combination of these uses. It shall also be served by suitable access for such purposes. The Planning and Zoning Commission may permit up to five percent of the open space to be paved (pervious "paving" materials are encouraged) or built upon for structures accessory to the dedicated use or uses of such open space, (e.g., pedestrian walkways and bike paths). Parking areas and areas used for vehicular access or egress shall not constitute open space.
- (i) At the discretion of the City Council, subsurface wastewater and stormwater management systems may be located within the open space. Surface systems, such as retention and detention ponds, shall not qualify towards the required open space unless these systems are determined to be non-structural, natural-like stormwater management systems that do not create impervious surfaces, enable infiltration, and that are otherwise compatible with the contemplated uses of the adjacent open space.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-96 Parking requirements.

- (a) All developments shall provide sufficient off-street parking in accordance with the requirements of chapter 98.
- (b) Any parking lots or drives, excluding single-family residential driveways, shall be paved with asphalt or concrete.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-97 Traffic flow between adjacent parking lots.

Adjacent commercial parking lots shall be constructed to allow proper traffic between parking lots.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-98—78-122 Reserved.

ARTICLE V. ENGINEERING AND CONSTRUCTION STANDARDS

Sec. 78-123 General policies regarding improvements; payment of costs of improvements.

Policies, terms and conditions to be followed in paving work and the extending of water and sewer lines and drainage must be approved by the city council and city engineer. All improvements shall be installed by the developer at his expense. The city shall not participate in the development unless a larger facility or improvement is required by the city. ~~The city may participate in the cost of the facility to the extent of the difference in the cost of the facility and improvement required to serve the developer's land and that required by the city to be installed.~~ With approval of the City Council, the city may contribute to the cost of the facility to the extent of the difference between the cost of the facility required to serve the development and the cost of the facility that the city requires to be installed. For example, if a 10"-diameter water line is needed to serve the development and the city requires a 12"-diameter water line, then the city may reimburse the developer on a pro-rata basis for the oversized water line. An appropriate method of such reimbursement between the city and the developer will be agreed to in writing before construction begins.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-124 Engineering and specifications for construction.

- (a) The city will reserve the right to approve all professional engineers that provide services to developers on public drainage, roads, streets, sewer and water facilities within the plat for utilities that will be dedicated to the public and operated and maintained by the city. The developer may retain an engineer of his choice registered in the ~~State of Texas~~state whose seal shall be placed on the drawings for the design of all private facilities for the purpose of drainage, roads, streets, sanitary sewers and water facilities within his plat.
- (b) All engineering construction plans, surveys, and standard specifications for construction of streets, drainage, and storm sewers or sanitary sewer lines shall be approved prior to commencement of construction of such facilities. The professional engineering services required of the developer for public utility work shall be done by an engineer approved by the city, and shall be as designated in the current issue of the manual entitled "~~Professional Practice General Engineering Service~~Texas Engineering Practice Act and Rules Concerning the Practice of Engineering and Professional Engineering Licensure," published by the state society of professional engineers, and shall include both design and construction monitoring as defined therein, ~~at the developer's cost~~. Platting shall be done by the developer's engineer or surveyor.
- (c) The city has adopted the city design criteria manual. The current version of the design criteria manual is incorporated herein by reference and shall remain on file at the office of the city secretary.
- (d) Elevations included in all engineering construction plans and surveys must be based ~~two~~upon the benchmarks and known city monumentation utilized in the final plat and must be clearly displayed on the construction plans and survey.

(Ord. No. 2011-09 , § 1, 7-26-2011; Ord. No. 2018-10 , § 1, 6-12-2018)

Sec. 78-125 Streets.

- (a) All streets shall be designed and constructed in accordance with the provisions of this chapter and the [city design criteria manual](#), as adopted by city council. All streets shall be periodically inspected by the city's engineer during the construction thereof. A developer shall deposit, in escrow with the city, an amount sufficient to offset costs incurred by the city for its engineer to inspect the streets during construction.
 - (1) *Design criteria.* Street design, classifications, alignments, minimum pavement widths, and right-of-way widths shall be designed and constructed in accordance with the provisions of section 78-87 and the city design criteria manual, as adopted by city council.
 - (2) *Residential street requirements.* Residential street classification is defined in section 78-87.
 - (a) Curb and gutter streets shall be used where residential lot widths are less than 100 feet.

- (b) Open ditch drainage is allowed in areas where the residential lot width is 100 feet or greater.
- (3) *Driveway general requirements.*
- (a) Nonresidential parking areas shall be designed to prevent backing of vehicles into a public street.
 - (b) Driveways shall be located and designed with respect to both the public street and the on-site circulation to provide maximum safety and to minimize interference with street traffic. To ensure this, the city engineer may require a traffic study to be performed **at the developer's/owner's expense**.
 - (c) Driveways shall be designed to accommodate all vehicle types having occasion to enter the site, including service, emergency or delivery vehicles.
 - (d) No single-family dwelling, townhouse, or duplex unit may take direct access to major or commercial streets if the property can be accessed by a residential or secondary street. If the property can only be accessed from a major or commercial street, then adequate maneuvering space must be provided on the property, as vehicles will not be allowed to back directly into the connecting street.
- (4) *Nonresidential driveway spacing.* All nonresidential driveways shall meet the following minimum spacing requirements:
- (a) Adjacent left, adjacent right, and opposite right corner clearance and commercial driveway spacing is determined by the classification of the street as follows (where raised medians are present, the spacing can be reduced by 20 percent):
 - 1. Major streets: 275 feet; 220 feet with raised medians.
 - 2. Commercial streets: 230 feet; 185 feet with raised medians.
 - 3. Secondary streets: 185 feet; 150 feet with raised medians.
 - (b) Opposite left corner clearance and commercial driveway spacing is determined by the functional classification of the street as follows (where raised medians are present, the spacing can be reduced by 20 percent):
 - 1. Major streets: 125 feet; 100 feet with raised medians.
 - 2. Commercial streets: 125 feet; 100 feet with raised medians.
 - 3. Secondary streets: 90 feet; 75 feet with raised medians.
 - (c) In the event that a particular parcel or parcels lack sufficient thoroughfare frontage to maintain the desirable spacing, the landowner shall have one of the following three options:
 - 1. In cases where a property owner desires multiple access points that do not meet minimum spacing requirements, or when the property owner requests access to a street other than the one approved by staff, they may seek a variance for minimum spacing, number, and/or location.
 - 2. The adjacent landowners may agree to establish a common driveway. Common driveways shall meet the standards set forth herein. Approval shall be conditional upon submittal of a perpetual joint use agreement which complies with the requirements set forth in this article.
 - 3. In cases where a property cannot meet the desirable spacing and currently has no improved access to the site, the city will not deny the property owner an access point. However, the access must be located in such a place as to minimize safety concerns.
 - (d) Specifications for construction of access aprons shall be equal to or exceed the specifications for the existing street and be in accordance with the rules, regulations and standards for subdivision construction in the city.
 - (e) Driveways shall be designed to drain so that street drainage is contained within the street, storm sewer or appropriate drainageway in order to ensure protection to the private property. Typically, this is

achieved by constructing the drive such that the elevation of the driveway at the property line is at least as high as the top of curb.

- (5) *Responsibility for Improvements on Existing Streets.* The developer shall be responsible for the construction of necessary improvements for existing public streets along any frontage of the proposed development and terminating at the next intersection from the nearest frontage point not to exceed 528 feet, ~~abutting the development to comply~~ with standards and the level of service required for such development by the adopted Thoroughfare Plan or by the City Administrator if no such plan exists. Such streets shall meet all requirements of the [city design criteria manual](#).

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-126 Drainage and storm sewers.

Adequate drainage shall be provided within the limits of the plat. A drainage plan shall be prepared by a licensed professional engineer in accordance with county drainage criteria or state department of transportation requirements (where drainage to a state department of transportation facility). The developer's engineer shall certify that improvements designed by the engineer will not unreasonably:

- (1) Impede the natural flow of the surface waters from higher adjacent properties;
- (2) Alter the natural flow of surface waters so as to discharge them upon adjacent properties at a more rapid rate, in greater quantities or in a different location than would result from the predevelopment natural flow of surface waters; or
- (3) Collect or concentrate the flow of surface waters for discharge into an existing natural or artificial drainageway in a manner which exceeds the capacity of the receiving watercourse.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-127 Sanitary sewer system.

- (a) The developer shall be required to submit a letter from the state regulatory commission approving the sanitary sewer system. The developer shall provide sewer lines necessary to properly serve the subdivision and shall ensure that existing and/or new sewer facilities are adequate to carry the expected increase in load ~~as determined by the city engineer~~.
- (b) Sanitary sewer lines shall have their locations and materials governed by the regulations of the state regulatory commission governing sanitary sewer systems and the ~~adopted~~ city plumbing code.
- (c) Pipe bedding and backfill details shall be approved by the city engineer.
- (d) The design of the sanitary sewer system shall be in accordance with the current requirements of the state commission on environmental quality and the city's design criteria manual.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-128 Water system.

- (a) The developer shall be required to submit a letter from the state regulatory commission approving the water system.
- (b) Water distribution lines shall have their locations and materials determined by the rules and regulations for public water systems of the state department of health. The rules for "approved" systems shall govern.
- (c) Water gate valves shall be left-opening and AWWA-approved.

- (d) The design of the water distribution system shall be in accordance with the latest requirements of the state commission on environmental quality and the city's design criteria manual.
- (e) Water production and distribution improvements shall be sized to provide adequate capacity for the projected demand, including fire flow.
- (f) Water mains shall be located within a street right-of-way, an easement adjacent to a street right-of-way, or a recorded water line easement.
 - (1) Four-inch mains may be used on dead end lines within cul-de-sacs, after the end of the six-inch line providing for fire hydrants.
 - (2) Six-inch mains may be used if the main is less than 900 feet for commercial use or 1,500 feet for residential use, and if connecting between two mains which are eight-inch size or larger.
 - (3) Eight-inch mains shall be used for mains over 900 feet long, or where more than three fire hydrants are needed.
 - (4) Twelve-inch mains and larger shall be used for water lines located along major thoroughfares and in accordance with the water system master plan.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-129 Sidewalks.

- (a) Sidewalks on both sides of the street shall be required for all new subdivisions.
- (b) Sidewalks shall be at least five feet in width and constructed in accordance with the [city design criteria manual](#). Sidewalks shall be shown on the construction plans for the subdivision, which shall note when sidewalks shall be installed and by whom. If the required width conflicted with an adopted thoroughfare plan, small area plan, etc., then the larger width shall apply.
- (c) Sidewalks shall be installed no later than the date of the warranty inspection for the subdivision.
- (d) Sidewalks shall comply with applicable state and/or federal accessibility standards and have design approval from the state and city where applicable.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-130 Submission of as-built plans of completed improvements.

The developer must present to the city engineer reproducible complete as-built plans for all paving, drainage structures, water lines and wastewater lines within 60 days after completion of such utilities, whether private or public. The as-built plans [and corresponding GIS shapefiles \(compatible with the City's GIS\)](#) must also be submitted in an electronic format acceptable to the city engineer.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-131 Maintenance bond.

- (a) Upon the completion of all public improvements, including, but not limited to, streets, proper street signing, sidewalks, drainage, water, and wastewater facilities, in accordance with the city specifications and standards, and their acceptance by the city, the developer or contractor shall furnish the city with a financial guarantee acceptable to the city. The financial guarantee shall equal 30 percent of the contract cost of such improvements and shall be in effect one year from the date of completion and acceptance by the city. The guarantee may be provided in the form of a cash escrow deposit, surety bond, or irrevocable letter of credit.

- (b) If any of the work performed by the developer or landowner is found or determined to be either defective, including obvious defects, or otherwise not in accordance with this article, the **city approved** designs, plans, drawings or specifications within one year after the date of the issuance of a certificate of final completion of the work or a designated portion thereof, whichever is longer, or within one year after acceptance by the city of designated equipment, or within such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by this article, the developer shall promptly correct the defective work, **to the city's standards**, at no cost to the city.
- (c) If within 20 calendar days after the city has notified the developer of a defect, failure, or abnormality in the work, the developer has not started to make the necessary corrections or adjustments, the city is hereby authorized but not required to make the corrections or adjustments, or to order the work to be done by a third party. The cost of the work shall be paid by the developer.
- (d) The cost of all materials, parts, labor, transportation, supervision, special instruments, and supplies required for the replacement or repair of parts and for correction of defects shall be paid by the developer, his contractors, or subcontractors, or by the surety.
- (e) The guarantee shall be extended to cover all repairs and replacements furnished, and the term of the guarantee for each repair or replacement shall be one year after the installation or completion. The one-year warranty shall cover all work, equipment, and materials that are part of the improvements made under this section of the ordinance.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Secs. 78-132—78-160 Reserved.

ARTICLE VI. VISUAL BARRIERS AND SETBACK REQUIREMENTS

Sec. 78-161 Applicability.

The city council and the planning and zoning commission have established the requirements for visual barriers in this article for all areas where commercial or multifamily zoning adjoins zoning of any other type. Churches, public buildings, and schools located in residentially-zoned areas shall also be required to provide visual barriers.

(Ord. No. 2011-09 , § 1, 7-26-2011)

Sec. 78-162 Required setbacks.

- (a) Vegetative setbacks of 25 feet in width shall be maintained at all times where commercial, **retail, office, or service; attached and multifamily residential, industrial, church, public or semi-public building or gathering facility or school properties** ~~is~~ **abut** any single-family residential **use or property or adjacent acreage that is designated for** ~~may in the future become~~ **single-family detached residential-** use on the Future Land Use Plan. The purpose of the vegetative setback is to visually shield or obscure one use from another. The vegetative setback may consist of a combination of required plantings, wall, screen fence, or berms. In the event walls, fences, or berms are used to provide screening, the Planning and Zoning Commission may reduce the required number of trees and shrubs by up to 50 percent if it is determined that the purpose of the vegetative setback will still be achieved. For each 100 linear feet, or portion thereof, such setback shall be planted as follows:
 - (1) **Four shade trees;**
 - (2) **Five ornamental trees; and**
 - (3) **20 shrubs.**

- (b) Existing trees within the designated vegetative setback may be credited toward meeting the planting requirements. Protected trees within the buffer area shall be preserved and regulated in accordance with Article VII, Tree Preservation and Replacement.
- (c) If walls are incorporated into the vegetative setback, they shall be constructed of masonry material on both sides and be not less than six nor more than eight feet in height. The wall shall be placed along the interior side of the vegetative setback with the required plantings on the outer side facing the adjoining property.
- (d) If fences are incorporated into the vegetative setback, they shall be constructed of standard pressure-treated wood fencing materials (but not woven wood), shadow-box design, provide at least 90 percent opacity and be not less than six nor more than eight feet in height. Fences shall be placed along the interior side of the vegetative setback with the required plantings on the outer side facing the adjoining property.
- (e) Earthen berms, if incorporated into the vegetative setback, shall have a slope of 3:1 and a flat-topped crown at least two feet wide. Plant material shall be placed along the top of the berm and the side slope facing the adjoining property. Berms shall be undulated to provide a more natural appearance.
- (f) Vegetation setbacks of not less than 15 feet in width will be required for commercial property that abuts any existing multifamily tract. All multifamily tracts shall have a vegetation barrier of at least ~~10~~ten feet within their property lines on all multifamily projects that abut multifamily or commercial zoning. For each 100 linear feet, or portion thereof, such setback shall be planted as follows:
 - (1) Three shade trees;
 - (2) Three ornamental trees; and
 - (3) 10 shrubs.
- (g) ~~The vegetation setback must also provide a visual barrier.~~

(Ord. No. 2011-09 , § 1, 7-26-2011)

ARTICLE VII. TREE PRESERVATION AND REPLACEMENT²

²Editor's note—Ord. No. 2019-13 , § 1, adopted June 25, 2019, in effect, repealed art. VII, §§ 78-171—78-179, and enacted a new art. VII. The ordinance designated these new provisions as §§ 78-171—78-184; to avoid duplication of section numbers, and at the editor's discretion, these provisions were redesignated as §§ 78-163—78-184. The previous article VII pertained to similar subject matter and derived from Ord. No. 2016-20, adopted September 27, 2016.

Sec. 78-163 Findings and intent.

- (a) The city council finds that trees are an important public resource that contributes to the unique character of the city and its physical, historical, cultural, aesthetic, ecological and economic environment. Trees reduce the effects of pollutants, provide wildlife habitat, shade and cooling, and add value to real property. It is the goal of the city council to secure these benefits by maintaining the tree canopy over a significant area of the city.
- (b) This article is intended to:
 - (1) ~~p~~Prevent the indiscriminate cutting of trees in advance of development;
 - (2) ~~to preserve existing trees of certain species; to provide for the replacement of trees that are necessarily removed during construction or development;~~Encourage the protection of healthy and desirable trees, and provide for the replacement and/or replanting of trees that are necessarily removed before or during construction, development, or redevelopment of a property;

- (3) Provide natural areas for more efficient drainage of land, thereby reducing the effects of soil erosion and the need for additional drainage facilities;
 - (4) ~~to~~ Require the consideration of trees as a component of site design; and
 - (5) Prevent clear-cutting of land containing trees with a ten-inch diameter at breast height (DBH) or larger.
 - (6) ~~to allow for the commercial development of private property subject to minimum standards for the preservation and planting of trees. The provisions of this article shall not be construed or applied to preclude development or prohibit ingress or egress.~~
- (c) ~~The city recognizes and appreciates the value of private property within its city limits and extraterritorial jurisdiction (ETJ) that is devoted principally to agricultural use for the production and support of timber, forest products and livestock. These lands devoted to the production of plant and animal products and agricultural timber farms shall not be subject to this article while being actively managed for such purposes and recognized by the county appraisal district as having agricultural or timber exemptions.~~

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-164 Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Caliper means the trunk diameter of nursery stock trees planted to satisfy a requirement of this article. Caliper is measured six inches above the root ball for trees that are four inches in diameter or smaller, and 12 inches above the root ball for larger nursery stock.

Canopy area means the extent of the uppermost crown of a tree or trees formed by the outer layer of leaves of an individual tree or group of trees.

City administrator means the person holding the office of city administrator or his designee acting in behalf of the city, with authority over the tree protection and preservation ordinance.

City engineer means the person or firm designated by the city council or the city administrator as the city engineer.

Critical root zone means the area within a radius extending out from the trunk of the tree one foot per each diameter inch of the trunk measured at breast height.

Diameter at breast height (DBH) means the diameter of trunk measured at 42 inches above natural grade.

Protected tree means any tree: ~~between the property line and existing or anticipated building setback lines on non single-family residential property~~

- (a) ~~With~~ a caliper of ~~10~~18 inches or greater that is not one of the following species: bois d'arc, thorny honey locust, hackberry, cottonwood, chinaberry, native black willow, native red or white mulberry, or Chinese tallow;
- (b) Possess a distinctive form, size, age, location or have historical significance; or
- (c) With a minimum caliper of five inches and are planted in the public right-of-way;

Tree preservation plan means a plan submitted by the owner in a form or manner specified by the city administrator or designee providing the method of protecting trees during construction that shall include protection details, standards, notes, and construction plans in accordance with generally accepted practices such as those provided in the Urban Forest Technical Manual, on file in the office of the city secretary. Total site area canopy area calculation shall also be included on the plan.

Urban Forest Technical Manual means the standards and specifications based on generally accepted practices developed by the city administrator or designee for sound arboricultural practices, techniques and procedures which shall serve as guidelines for trees regulated by this article, including, but not limited to, tree selection, planting, alteration, treatment, protection, and removal as approved by the city council, maintained by the city secretary and available through the city administrator.

Woodland tree stand means an area of contiguous wooded vegetation covering at least 2,500 square feet where the branches and leaves of the trees form a canopy over substantially all the area.

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-165 Applicability and exceptions.

~~Sec. 78-165 Applicability and exceptions.~~

- (a) Except as otherwise provided by this section, the requirements of this article are applicable throughout the corporate limits of the city and apply to all types of development or development activity by both public and private entities, including but not limited to:
- (1) The removal of any protected tree;
 - (2) Clearing of all or a portion of property **regardless if it as-is** part of the development process **or done without connection to a specific development;**
 - (3) Subdivisions of land for any purpose;
 - (4) Additions to non-residential buildings or parking lots that expand the footprint of the structure by 30 percent or more, or that add at least 3,000 square feet of area to the existing structure;
 - (5) Construction of new multi-family or non-residential structures for which a building permit is required; and
 - (6) Construction of new one- or two-family residential structures.
- (b) This article does not apply to:
- (1) A tree removed from a **single** residential lot by ~~or~~ at the direction of the homeowner residing on the property
 - (2) **Harvesting of timber or forest products for commercial or personal purposes on private property and lands devoted to the production of plant and animal products and agricultural timber farms shall not be subject to this article while being actively managed for such purposes and recognized by the county appraisal district as having agricultural or timber exemptions;**
 - (3) ~~Changes in the use or configuration of existing non-residential buildings or parking lots that does not expand the structure beyond the limits provided in (a)(4) of this section;~~
 - (4) Clearing, maintenance or tree trimming within an easement or right-of-way by a railroad or utility company;
 - (5) The construction of streets or highways by or on behalf of a state or local government entity; and
 - (6) The removal or trimming of trees or other vegetation within or adjacent to street rights-of-way to conform to traffic safety rules requiring unobstructed views; **or-**

- (7) Infill construction of single-family residences on lots in residential subdivisions vested in regulations in effect prior to September 27, 2016. ~~are subject to the requirements of section 78-177 but are otherwise exempt from the requirements of this article.~~

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-166. General tree preservation standards.

(a) ~~General tree preservation standards.~~

- (1) The applicant shall configure a site in such a manner that the maximum number of protected trees will not be removed or damaged due to the building layout and construction within the site.
- (2) Trees may be planted or preserved within storm water detention areas provided that the trees do not interfere with the drainage or substantially impair the storm water detention function.

(Ord. No. 2019-13 , § 1, 6-25-2019)

- (2) ~~No person shall remove or otherwise damage a protected tree without first securing a tree removal permit as specified in Sec. 78-168, Tree removal and replacement.~~
- (3) ~~If a stop work order is issued, it is unlawful for a person to continue work or removal of trees.~~
- (4) ~~Before the site is cleared for construction, each existing tree shall be protected by the placement of a barrier around the critical root zone that is at least four feet in height. Barriers shall be orange construction fencing or an alternative barrier approved by the Administrator.~~
- (5) ~~A minimum of 75 percent of the critical root zone of a tree to be preserved shall be maintained as a permanent, landscaped area at grades existing before site development unless special provisions are made for the protection and survival of the tree. Such special provisions, including, but not limited to, the use of permeable paving materials, shall be subject to the approval of the Administrator.~~
- (6) ~~No part of the critical root zone of trees to be preserved may be paved with concrete, asphalt, or other impervious material.~~
- (7) ~~Soil or other materials shall not be temporarily or permanently stored in locations that would cause suffocation of root systems of trees to be preserved.~~

(b) ~~Sec. 78-166-Additional requirements for residential development.~~

- (1) Each building permit for a new one- or two-family dwelling shall require the preservation or planting of at least two trees. At least one tree shall be located in the front yard of the dwelling; have a minimum caliper of two inches; and be classified as a large tree per Table 2 in section 78-168.4. The remaining tree on the dwelling property may be placed in the front, rear or side yards of the dwelling; be at least a 30-gallon container size tree; and may be any size classification. No certificate of occupancy shall be issued for any new one- or two-family dwelling until this requirement has been satisfied.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(c) ~~Sec. 78-166-Tree preservation adjoining residential property.~~

- (8) Where non-residential property is developed adjacent to residential zoning districts, trees located within required side and rear yard setbacks classified as protected trees are subject to mandatory preservation. No permit shall be issued to authorize the removal of any healthy protected tree except where removal is necessary for the construction of infrastructure, driveways, or on-premise advertising signs.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(d) ~~Sec. 78-166~~ *Parking lot trees.*

- (9) In the case of new parking lots, or additions to existing parking that expand the footprint of the parking lot by more than 30 percent, 60 square feet of tree canopy must be preserved or planted for each additional parking space. Parking lot trees must be located in the interior of the parking lot or in an area immediately adjacent to the parking lot. For parking lots of 250 spaces or more, at least 50 percent of the tree canopy must be located within the interior of the parking lot. Only trees of the preferred species listed in Table 2 of section 78-16884 may be used to satisfy the planting requirements of this section; and all such trees must be at least two and a half-inch caliper and a minimum of ten feet in height. Additionally, no parking space shall be further than 125 feet away from the trunk of a tree.

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-167. Tree assessment.

- (a) A tree ~~assessment~~~~preservation plan~~ must be included with all final plat submittals to plat new subdivisions or developments, and again with all requests for permits for non-single-family residential construction. If the site of development or construction does not contain any protected trees, a verification letter of no protected trees shall be submitted to the city that attests that protected trees are not on the property and that the person making this determination is qualified to do so. Persons who may prepare the tree ~~assetment~~~~preservation plan or~~ verification letter include registered surveyors, professional engineers, architects, landscape architects, arborists, or other qualified licensed professional. The letter must contain a statement affirming the author is qualified to prepare such document and listing his state license number or other certificates of documentation.
- (b) *Contents of the tree assessment.*
- (1) *Photographs.*
- a. Photographs of the site, taken at the property line from four geographical directions, in which any existing trees that are eight inches or larger in diameter (as measured at four feet above the ground) are visible.
 - b. One or more photos of each existing eight-inch-diameter tree, taken at a distance from which its type, size, and condition are reasonably evident; and
 - c. All other photos that the applicant chooses to take and submit in support of the tree removal criteria in Sec. 78-168, *Tree Removal and Replacement.*
- (2) *Labels and Tree List.* The photographs shall include labels identifying each tree that shall correspond to a written list of the trees' species, approximate height, general appearance, and condition.
- (c) If the site of development or construction does not contain any protected trees, a verification letter of no protected trees shall be submitted to the city that attests that protected trees are not on the property and that the person making this determination is qualified to do so. Persons who may prepare the ~~tree preservation plan or~~ verification letter include registered surveyors, professional engineers, architects, landscape architects, arborists, or other qualified licensed professional. The letter must contain a statement affirming the author is qualified to prepare such document and listing his state license number or other certificates of documentation.
- (i) ~~The tree preservation plan shall be a scaled diagram overlaying the site plan and drawn to the same scale. Two copies of the plan shall be provided. The plan must include all details required for the preservation of existing trees during construction and for the installation of any new trees necessary to meet canopy area coverage required by this article. The tree preservation plan must include:~~

- (1) ~~The proposed location of all easements and setback lines; building setback lines on single-family residential lots are not required to be shown on the tree preservation plan and are not subject to protected tree preservation requirements.~~
 - (2) ~~The footprint of all proposed buildings, parking lots, and detention ponds;~~
 - (3) ~~The location, size, and variety of protected trees;~~
 - (4) ~~The location, size, and variety of each additional tree that will be preserved for credits and the outline of each woodland tree stand to be preserved;~~
 - (5) ~~The location and variety of each tree to be planted to achieve the required minimum canopy; and~~
 - (6) ~~Any other information required by the city administrator to calculate the required canopy or amount of earned credits.~~
- () ~~Trees may be planted or preserved within storm water detention areas provided that the trees do not interfere with the drainage or substantially impair the storm water detention function.~~
- ~~(Ord. No. 2019-13, § 1, 6-25-2019)¶~~
- () ~~Sec. 78-184. Fees. Appendix A contains a list of fees relating to tree preservation plans as currently established or as hereafter adopted by resolution of the city council from time to time and is available for review in the office of the city secretary. (Ord. No. 2019-13, § 1, 6-25-2019)~~

Sec. 78-168. Tree removal and replacement.

- (a) ~~Sec. 78-168~~ *Pre-development planning and clearing permits.*
- (1) Except as expressly provided by this chapter, no development, ~~clearing or removal of trees~~ shall occur unless the site of the proposed work is covered by an approved tree preservation plan. ~~The location of all proposed buildings and improvements shall be oriented by the applicant, at the applicant's sole discretion, taking into consideration the existing tree stock and other relevant site characteristics.~~
 - (2) The applicant shall propose the location of woodland tree stands or individual trees for which preservation credits are requested. A tree located outside a woodland tree stand shall not receive credit unless the tree has a diameter at breast height (DBH) of at least six inches. The applicant shall consider the preservation of trees in areas visible from abutting streets and public spaces. Preservation credits may be denied for trees located in existing or proposed easements or rights-of-way where there is a reasonable possibility that removal of the tree will be required for utility operations. New tree stock shall be planted where the minimum canopy is not met through preservation alone.
 - (3) A clearing permit may be issued to authorize the removal of protected trees in conformity with a tree preservation plan that has been approved in conjunction with the approval or issuance of a subdivision plat, building permit or other form of development permit. Compliance with the tree preservation plan is a condition of the clearing permit. No related building permit and no certificate of occupancy may be issued until the city administrator confirms that the development has been completed in conformity with the tree preservation plan.
 - (4) A partial clearing permit may be issued prior to the approval of a tree preservation plan submitted in conjunction with a final plat or development permit application in order to allow pre-development clearing of a portion of the land. An application to obtain a partial clearing permit must include a site plan of the of the property on which the applicant delineates proposed building setback lines that are applicable to the site. The partial clearing permit does not permit clearing activities in areas that are located within these setback lines. Building setback lines on single-family residential lots are not required to be shown on the site plan and are not subject to protected tree preservation requirements.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(b) ~~Sec. 78-168 Permit required for r~~Removal of protected tree.

- (1) A person shall not cut down or remove any protected tree unless authorized to do so under a permit issued as provided by this article. A protected tree is any tree: ~~between the property line and existing or anticipated building setback lines on non-single family residential property~~
 - (a) ~~w~~With a caliper of ~~1018~~ inches or greater that is not one of the following species: bois d'arc, thorny honey locust, hackberry, cottonwood, chinaberry, native black willow, native red or white mulberry, or Chinese tallow;-
 - (b) Possess a distinctive form, size, age, location or have historical significance; or
 - (c) With a minimum caliper of five inches and are planted in the public right-of-way;
- (2) ~~A person shall not cut down or remove any protected tree unless authorized to do so under a permit issued as provided by this article.~~ Only the following permits may be issued to authorize removal of a protected tree:
 - (a) A protected tree removal permit; and
 - (b) A clearing or partial clearing permit issued in conjunction with a subdivision plat, building permit, or other form of development permit that incorporates a tree preservation plan approved under this article.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(c) ~~Sec. ~~~Protected tree removal permit.

- (1) A protected tree removal permit is required when an applicant is requesting to remove a protected tree(s). Applications for protected tree removal permits are reviewed by the city administrator.
- (2) The application for a protected tree removal permit shall be made by the owner of the property on which the protected tree is located, and shall be accompanied by documentation showing:
 - (a) The approximate location of all protected trees on site;
 - (b) The DBH of all protected trees on site;
 - (c) The canopy area of all protected trees on site;
 - (d) The species and/or common name of each tree;
 - (e) The approximate size of the lot, tract or parcel on which the tree is located;
 - (f) Reason for the proposed removal;
 - (g) A tree replacement plan, after evaluation of the tree removal permit by city administrator or designee, and only if total canopy area coverage for the site falls below 50 percent; and
 - (h) Other information required to make determination in the opinion of the city administrator;
- (3) A protected tree removal permit shall be issued to authorize the removal of:
 - (a) Any protected tree that is dying or has become a hazard tree;
 - (b) Any protected tree that obstructs the only practicable means of ingress or egress to or from property; or
 - (c) Any other protected tree on previously developed property provided that removal of the protected tree does not reduce the tree canopy below the required minimum tree canopy applicable to the property under Section 78-~~166175~~.

- (4) A protected tree removed from previously developed property under a permit issued in accordance with this section must be replaced elsewhere upon the property unless the minimum canopy requirements of this article are satisfied without the necessity of replacement.
- (5) A protected tree removal permit authorizes the removal of the protected tree identified in the application and shall require replacement of the removed trees as described in Sec. 78-169, except in the following situations if corrective pruning if not sufficient to resolve the problem:
 - (a) *Obstruction.* The protected tree obstructs the free passage of pedestrian or vehicular traffic or obstructs a traffic light or sign. A tree, shrub, or other plant or portion thereof shall be deemed to be an obstruction to pedestrian traffic if it is lower than eight feet above a sidewalk and an obstruction to vehicular traffic if it is lower than 13 feet above streets;
 - (b) *Dead or Diseased.* The protect tree is dead or infected with a highly infectious disease or insect that threatens to become epidemic unless otherwise controlled under emergency situations;
 - (c) *Danger to Public.* The protected tree by reason of location or condition constitutes an imminent danger to the health safety, or welfare of the general public; or
 - (d) *Transplantation.* The protected tree is transplanted to a suitable location on the same property or off-site provided that the owner complies with the generally accepted transplanting methods described in the urban forest technical manual and the protected tree survives for a period of at least two years.
- (6) ~~A protected tree removal permit may authorize the removal of up to ten specific trees identified in the application and~~ The protected tree removal permit expires 30 days following the date of issuance. The city administrator shall prescribe the form of application for a tree removal permit. An application fee set forth in appendix B must accompany each application.

(Ord. No. 2019-13 , § 1, 6-25-2019)

Editor's note—The "appendix B" referenced herein is not included in this article and is available for review in the office of the city secretary.

Sec. 78-169. Tree installation and maintenance.

- (a) ~~Sec. 78-169~~ *New and replacement trees.*
 - (1) Only trees of the preferred species listed in Table 2 of this section are considered acceptable for new and replacement tree planting. Additional tree species may be considered and approved on a case by case basis by the city administrator and such trees will receive a canopy credit applicable to the species class height. At least 20 percent of new trees must be a minimum of three inches in caliper at planting. The remaining 80 percent of required new trees must be a minimum of two-inch caliper. Replacement trees on residential lots are exempt from size and species requirements in this section. ~~and shall follow sizing requirements in accordance with section 78-177.~~
 - (2) Not less than 25 percent of new trees planted shall be evergreen.
 - (3) Trees planted under or near overhead power lines must be chosen from the small tree category of Table 2. Large tree species shall not be planted within 30 feet of overhead power lines. Medium tree species shall not be planted within 20 feet of overhead power lines.

TABLE 2 PREFERRED SPECIES LIST			
Tree species and height at maturity	Leaf type	Canopy credit	
Large Over 40 feet tall	Loblolly Pine	evergreen	800 square feet
	Slash Pine	evergreen	
	Water Oak	deciduous	
	Live Oak	evergreen	
	Shumard Red Oak	deciduous	
	Southern Red Oak	deciduous	
	Chinquapin Oak	deciduous	
	Cedar Elm	deciduous	
	Green Ash	deciduous	
	Sweetgum	deciduous	
	American Elm	deciduous	
	Montezuma Cypress	deciduous	
	Bald Cypress	deciduous	
	Sycamore	deciduous	
Medium 25 to 40 feet tall	Winged Elm	deciduous	600 square feet
	Chinese Pistache	deciduous	
	Lacebark Elm	deciduous	
	River Birch	deciduous	
	Eastern Red Cedar	evergreen	
Small Less than 25 feet tall	Little Gem Magnolia*	evergreen	300 square feet
	Rusty Blackhaw*	deciduous	
	Fringetree*	deciduous	
	Redbud*	deciduous	
	Hophornbeam*	deciduous	
	Japanese Blueberry	evergreen	
	Cherry Laurel	evergreen	

*Denotes only trees suitable for planting under or adjacent to power lines.

(Ord. No. 2019-13 , § 1, 6-25-2019)†

(b) ~~Sec. 78-169~~ Post-development maintenance and replacement.

- (1) Protected trees, parking lot trees, and replacement or mitigation trees must be maintained in a healthy condition for at least one year following the issue of a certificate of occupancy. The property owner is responsible for irrigating, fertilizing, pruning, and other maintenance of such trees as needed. Preserved or planted trees that die within the maintenance period must be replaced within 90 days with new trees meeting the requirements of this sSection 78-176. Planted trees that die during the maintenance period must be replaced with new trees having the total canopy value that is not less than the canopy of the tree to be replaced. Replacement trees planted to satisfy the requirements of this section are subject to

a one-year maintenance period and must be replaced if they fail to survive the extended maintenance period.

- (2) Trees on residential lots are not subject to the one-year maintenance period established by this section. A homeowner is not required to replace a lot tree that dies or at the direction of the homeowner.
- (3) No person, or company directly or indirectly, shall cut down, destroy, remove or move, or effectively destroy through damaging, any protected tree regardless of whether the protected tree is on private property or the abutting public right-of-way with the following exceptions:
 - b.
 - (a) Dead trees may be removed at any time and shall be considered in the tree preservation plan. This shall not require city approval under this article.
 - (b) If any protected tree is determined to be in a hazardous or dangerous condition so as to endanger the public health, welfare or safety, and requires immediate remove without delay, authorization for removal may be given by the city emergency management coordinator or other designee of the city, and such a protected tree may then be removed without obtaining a written permit as required in this chapter and the fees, restitution, and penalties will not apply. Canopy coverage requirements will not be waived or altered as a result of this provision, and tree replacement shall be required if applicable.
 - (c) During a period of emergency, such as a tornado, storm, flood or other act of God, the requirements of this article may be waived as may be deemed necessary by the city's designated emergency management coordinator (EMC) or, if unavailable, by the EMC equivalent from the federal, state or county emergency management agencies.
 - (d) Any tree may be reasonably pruned for aesthetic, maintenance, disease control, or safety reasons. This shall not require city approval.
 - (e) No protected tree shall be pruned in a manner that significantly disfigures the tree or in a manner that would reasonably lead to the death of the tree.
 - (f) Trees which are to be removed for disease or safety reasons shall be approved by the city prior to cutting. Factors to be considered include, but are not limited to, the overall health of the tree, the potential for adverse impacts of both leaving and removing the tree, and aesthetic value.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(Ord. No. 2019-13 , § 1, 6-25-2019)

- (c) ~~Sec. 78-169~~ *Technical standards and specifications.*
 - (1) The city administrator is authorized to prepare technical standards and specifications to ensure the proper implementation of the provisions of this article. These can be found in the Urban Forest Technical Manual. In the event of any conflict between the provisions of this article and the provisions of the Urban Forest Technical Manual, the provisions of this article shall control.

Sec. 78-170 Penalties for violation.

- (a) Any person, firm or corporation that violates a provision of this article shall be guilty of a misdemeanor and upon conviction thereof may be fined in any amount not exceeding \$~~1000500~~.00. In cases of offenses involving the illegal removal of trees, the removal of each tree constitutes a separate offense. In cases of continuing violation, each separate day that a violation continues constitutes a separate offense.

- (b) In addition to any criminal penalties imposed in subsection (a) above, the city may seek civil injunctive relief or other appropriate relief in district court as authorized by law.

(Ord. No. 2019-13 , § 1, 6-25-2019)

Sec. 78-171. Mitigation and relief from from standards.

- (a) ~~Sec. Variance procedure.~~

- (1) The ~~City Council~~ ~~city administrator~~ may grant a variance to the requirements of this article where literal enforcement will result in unnecessary hardship. A variance shall not be granted unless:
 - (a) The variance is not contrary to public interest;
 - (b) The variance will be in harmony with the spirit and purpose of this article;
 - (c) The variance will not substantially weaken the general purposes of the regulations herein established for the protection of trees and the promotion of tree canopy; ~~and~~
 - (d) The variance granted is limited in scope to that relief which is necessary to relieve the hardship condition ~~and does not exceed 50% of what this article requires to be preserved or planted;~~ ~~and~~
 - (e) ~~A hardship and/or special circumstances or conditions exist on the property and were not created by the applicant and are not merely financial.~~
- (2) All variance requests must be made in writing to the city administrator and must include the subject of the requested variance and the justification for granting the variance, including a description of the hardship condition that will result if the requested relief is not granted. The applicant has the burden of demonstrating that sufficient evidence exists for granting the variance. ~~The city administrator may deny or grant the variance as requested or may allow an alternate form of relief. The city administrator shall issue a decision in writing not later than ten business days following the date the variance request is received.~~
- (3) An applicant for a variance bears the burden of demonstrating that application of the preservation or planting requirement will result in unnecessary hardship.
- (4) An applicant who disputes the decision of the ~~City Council~~ ~~city administrator~~ may appeal the variance decision to a court of competent jurisdiction within a timeframe established by the court. ~~the municipal planning and zoning commission. Any appeal must be made in writing and must be filed with the city administrator within ten days following the date of the initial written decision. The city administrator shall refer the appeal to the planning commission and the decision of the planning commission shall be final.~~

(Ord. No. 2019-13 , § 1, 6-25-2019)

- (b) ~~Sec. Mitigation payments~~ *Fee* in lieu of preservation or planting.

- (1) An applicant may seek a variance ~~for as to all or~~ a portion of the tree preservation or planting requirements upon the condition that the applicant pay mitigation fees in lieu of preservation or planting. ~~An applicant for a variance bears the burden of demonstrating that application of the preservation or planting requirement will result in unnecessary hardship.~~
- (2) Mitigation fees authorized by this section shall be payable at the rate of \$1.50 per square foot of additional canopy necessary to achieve the coverage applicable to the property after allowance for all other credits.

(Ord. No. 2019-13 , § 1, 6-25-2019)

(c) *Tree mitigation fund.*

- (1) The city administrator shall establish a dedicated account to be known as the tree mitigation fund. Mitigation fees paid as provided by this section ~~78-181 of this article~~ shall be recorded for the benefit of the fund and accounted for in a manner that distinguishes such funds from other general funds of the city. The balance of such fund remaining at the each of each fiscal year shall be appropriated as the beginning balance of the fund for the following fiscal year. The assets of the fund may be used as provided by this section and for no other purpose.
- (2) The assets of the fund shall be expended under the direction of the city administrator and may be used to purchase and plant new trees in public parks, parkways, medians and rights-of-way of public streets and upon the grounds of other public property of the city. Planting costs payable from the fund include the installation of related irrigation equipment and other measures necessary to the protection and subsequent maintenance of new trees for a period of up to three years following planting. An amount not to exceed 20 percent of the fund balance at the beginning of each fiscal year may be expended to promote public awareness of the objectives of this article, including Earth Day or Arbor Day programs for the distribution of sapling trees to the general public.

~~**Sec. Accommodations of development standards.**~~

- ~~(a) The city council recognizes that in certain instances the goal of this article must be balanced against potentially conflicting objectives arising from other development regulations. The city administrator may modify or waive the application of development standards as provided in this section when the city administrator determines that modification will facilitate the tree preservation requirements of this article and will not substantially increase the risk of unsafe traffic conditions or congestion, inconvenience to pedestrians, or flooding.~~
- ~~(b) Up to 15 percent of required parking spaces may be waived if compliance with the canopy requirements cannot otherwise be achieved and if the reduction in parking area results in an equivalent increase in the area of preserved canopy.~~
- ~~(c) Sidewalks may be relocated, reduced in width or otherwise modified, where the application of sidewalk standards would otherwise conflict with tree preservation and canopy objections.~~
- ~~(d) The city administrator shall consider the effect on site drainage of low impact development strategies incorporating tree preservation and tree planting and, guided by generally accepted engineering standards and practices, may approve offsetting reductions to the size of onsite stormwater detention facilities.~~

~~{Ord. No. 2019-13, § 1, 6-25-2019}~~

ARTICLE VIII. LANDSCAPING REQUIREMENTS FOR ALL ZONING DISTRICTS

Sec. 78-185 Definitions.

The following words, terms and phrases, when used in this article, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Berm means an earthen mound designed to provide visual interest, screen undesirable views and/or decrease noise.

Landscape buffer means a combination of physical space and vertical elements, such as plants, berms, two-sided fences or walls with at least five feet of plantings on the side of the development and adjacent to the fence or wall, the purpose of which is to separate and screen incompatible land uses from each other.

Landscaped open area and landscaped area mean any combination of living plants, such as grass, ground cover, shrubs, vines hedges or trees, and nonliving landscape material, such as rocks, pebbles, sand, mulch, walls, fences or decorative paving materials.

Non-permeable means any surface lacking the ability for air and water to pass through to the root zone of plants.

Ornamental tree means a deciduous or evergreen tree planted primarily for its ornamental value or screening purposes. Such tree tends to be smaller at maturity than a shade tree.

Screen means a method of reducing the impact of noise and unsightly visual intrusions with less offense or more harmonious elements, such as plants, berms, two-sided fences or walls with at least five feet of plantings on the side of the development and adjacent to the fence or wall, any appropriate combination thereof.

Shade tree means a sometimes evergreen, usually deciduous tree, planted for its high crown of foliage or overhead canopy; a large woody perennial having one or more self-supporting stems and numerous branches reaching a mature height of at least 25 feet and a mature spread of at least 20 feet.

Shrub means a self-supporting wood perennial plant of low to medium height which is characterized by multiple stems and branches continuous from the base, usually not more than ten feet in height at maturity.

Visibility triangle means an imaginary triangle located within the curblines of two intersecting such curblines at points 35 feet back from their intersection and the hypotenuse (or third side of the triangle).

(Ord. No. 2017-08, § I, 3-14-2017)

Sec. 78-186 Purpose.

The purpose of this article is to:

- (1) Aid in stabilizing the environment's ecological balance by contributing to the processes of air purification, oxygen regeneration, groundwater recharge and storm water runoff retardation, while at the same time aiding in noise, glare and heat abatement.
- (2) Assist in providing adequate light and air and preventing overcrowding of land.
- (3) Ensure that landscaping is an integral part of development, not an afterthought.
- (4) Provide visual buffering and enhance the beautification of the City.
- (5) Safeguard and enhance property values and protect public and private investments.
- (6) Preserve and protect the unique identity and environment of the City and preserve the economic base attracted to the City by such factors.
- (7) Conserve energy.
- (8) Protect the public health, safety and general welfare.

(Ord. No. 2017-08, § I, 3-14-2017)

Sec. 78-187 Applicability; variances.

- (a) This article applies to all lots, parcels, or tracts of land within the city as well as any areas subsequently annexed by the city with the following exceptions:
 - (1) Previously platted residential lots.
 - (2) Any platted parcel, less than five acres, that contains an occupied building which has a valid certificate of occupancy.
- (b) When this article becomes applicable to a lot, the requirements set forth in this article shall be binding on all current and subsequent owners of the lot.
- (c) The planning and zoning commission shall, as a minimum, impose landscaping requirements that are reasonably consistent with the standards and purposes of this article as a part of any ordinance establishing or amending a planned development district, amending a special use permit. All landscaping requirements imposed by the planning and zoning commission and shall be reflected in landscape and irrigation plans that comply in form and content with the requirements of section 78-188.
- (d) The board of adjustment may grant a special exception to the landscaping requirements set forth in this article upon making a special finding from the evidence presented that strict compliance with the requirement of this article will result in inequity to the applicant without sufficient corresponding benefit to the city and its citizens in accomplishing the objectives and purposes of this article. The applicant to be considered for special exception must submit a justification statement that describes which of the requirements set forth in this article will be met with modifications; which project conditions justify using alternative; and how the proposed measures equal or exceed normal compliance.

(Ord. No. 2017-08, § I, 3-14-2017)

Sec. 78-188 Landscape plan approval.

- (a) At the time of site plan review, there shall be submitted to the city administrator or the city administrator's designee, a landscape plan drawn to the same scale as the approved site plan and submitted with the same number of copies as the site plan. The planning commission may adopt a thematic landscape plan for certain areas of the city that dictate private plans.
- (b) Except where otherwise provided, the person responsible for the property, whether owner or tenant, shall landscape all yard, setback, parking, service and recreational areas with lawns, trees, shrubs, flowers, vines, ground covers or other live plant materials, which shall be permanently maintained by the owner or tenant in a neat and orderly manner as a condition of certificate of occupancy. Once installed, all landscape materials shall be irrigated by a mechanical underground irrigation system and maintained in a living state. Dead or dying plant materials shall be removed and replaced in accordance with the approved landscape plan.
- (c) Where the use of a living screen is proposed, such screen must be included as an element of the site plan and landscape plan.
- (d) Fountains, ponds, sculptures, planters, walkways, flagpoles, light standards and decorative screen-type walls shall be permitted as elements of landscaping in areas designated for landscaping. Decorative-type walls, planters and sculptures shall be 30 inches or less in height. The city administrator or the city administrator's designee shall be authorized to permit heights more than 30 inches where it would be in the best interest of the landscaping and will not, in the opinion of the city administrator or the city administrator's designee, create a problem relative to public health, safety, convenience, prosperity and general welfare.
- (e) Areas of landscaped open space shall be provided on the same lot, parcel or tract as the building that is being served and shall be provided in the following ratios:

- (1) *Nonresidential.* New nonresidential development in all districts shall be subject to all provisions of this article, provided that a one-time expansion of the floor area of buildings on a lot or building tract not exceeding 15 percent of the existing floor area shall not be subject to the requirements of this article. For lots, parcels or tracts of land applicable of this section landscaping shall be provided at a minimum ratio of ten percent of the gross land area, excluding development on lots of record.
- (2) *Residential subdivisions and multifamily.* Excluding single-family detached, single-family attached, duplex dwellings or multi-family dwellings on lots of record, new residential, duplex and multi-family development, including new residential subdivisions, shall be subject to the provisions of this subsection; landscaping shall be provided at a minimum of 12 percent of the gross land area.
- (f) For parking areas, a minimum of 20 percent of the required landscaping shall be provided in areas that are internal to the parking areas. In parking lots having only one row of parking, such requirement may be met with perimeter landscaping.
- (g) Proposed utilities shall be located, when possible, so that their installation will not adversely affect vegetation to be retained on site.
- (h) For purposes of establishing compliance with the minimum area requirements for landscaping, no land within the 100-year floodway, as determined by the most recent Federal Emergency Management Agency (FEMA) study, shall be counted as fulfilling the minimum landscape area requirements.
- (i) The landscape plan shall show in detail, but shall not be limited to, the location of each element of landscaping; a description by botanical and common name of each landscape element or group of element; the number and size of each tree or planting container; and the height of any proposed planter, sculpture or decorative screen.
- (j) The city administrator or the city administrator's designee, with the aid of appropriate city staff, shall consider the adequacy of the proposed landscaping and any other aspect deemed necessary to promote the public health, safety, order, convenience, prosperity and general welfare.
- (k) In the approval or disapproval of the landscape plan, the city administrator or the city administrator's designee shall not be authorized to waive or vary conditions and requirement contained in the comprehensive zoning ordinance, chapter 98 of this Code, or other valid city ordinances.
- (l) It shall be unlawful to issue a certificate of occupancy prior to the approval of the landscape plan by the city administrator or the city administrator's designee. Prior to the issuance of a certificate of occupancy but after the screening and landscaping has been approved, a temporary certificate of occupancy may be issued for such limited time as is reasonable to complete the landscaping.
- (m) When changes to a previously approved landscape plan are requested, and such changes will result in amendment or abandonment of an easement or right-of-way, or when the gross square footage of a lot, parcel or tract of land will be increased by more than ten percent or 1,000 square feet, whichever is less, or if the approval of a revised site plan is required, the planning and zoning commission's designee shall consider the same elements in the approval or disapproval of a revised landscape plan as for an original landscape plan. In considering a revised landscape plan the planning and zoning commission shall not be authorized to waive or vary conditions and requirements contained in the comprehensive zoning ordinance, chapter 98 of this Code, or amendments thereto, or other valid city ordinances. If the changes being proposed are of a minor nature, as determined by the city administrator or the city administrator's designee, administrative approval of the minor revisions shall be permitted under the conditions set forth in the following subsection.
- (n) The city administrator or the city administrator's designee shall be authorized to approve minor amendments to previously approved landscape plans. Minor amendments are those amendments which provide for rearrangement or reconfiguration of landscape areas or materials which are in conformance with an approved

site plan and do not decrease the amount or quality of landscaping below that required by the comprehensive zoning ordinance, chapter 98 of this Code. In the approval or disapproval of a minor revision to an approved landscape plan or revised landscape plan, the city administrator or the city administrator's designee shall not be authorized to waive or vary conditions and requirements contained in the comprehensive zoning ordinance, or amendments thereto, or other valid city ordinances. All minor revisions that are approved administratively shall appear as an item on the next planning and zoning commissions agenda following approval for acknowledgment of staff action.

(Ord. No. 2017-08, § I, 3-14-2017)

Sec. 78-189. Residential subdivision perimeter fences and walls.

- (a) No plats or subdivision containing six or more lots shall be approved when the side or rear property line of any of lots adjoin a collector or arterial street unless a masonry (excluding stucco or cinder block), wood, iron picket or a fence with a combination of materials is constructed along the side or rear property line of all lots adjoining the street. Such fence shall be of consistent material and color, at least six feet in height and not exceed eight feet in height above the average surrounding grade or ground level, and shall not be placed or constructed closer than 10 feet from any entry street right-of-way line.
- (b) No plat or subdivision of land on which a subdivision perimeter fence is to be constructed shall be approved unless the plat clearly provides that the subdivision perimeter fence shall be owned by the developer and his or her successors, including but not limited to, any homeowners or civic association, or in common by the homeowners of the subdivision. Additionally, the following statement must appear on the face of the plat: "The City of Montgomery, Texas, does not maintain subdivision fences."
- (c) The applicant may construct a subdivision sign and wall or fence in conjunction with the development of a subdivision provided such construction is in accordance with this Section.
 - (1) The plans for such signs, walls and fences shall be submitted at the time the plans for other subdivision improvements are submitted. If a wall and/or fence is not detailed with final engineering plans, a site plan will be required with applicable fees.
 - (2) No sign, wall or fence shall be constructed which interferes with the line of sight of motorists approaching or exiting a subdivision.
 - (3) A wall or fence, if constructed, shall be built on private property along the frontage of the subdivision adjacent to the roadway. The wall or fence shall not exceed eight feet in height and shall be of one uniform architectural design. Walls shall not to be constructed within public utility easements unless an easement agreement is executed and filed with the city.
- (d) Fences within a common subdivision placed along arterial or collector streets shall be coordinated by the developer so that they will be constructed with the same height, spacing, pattern, colors and materials.
 - (1) Where perimeter fencing or walls are installed around a subdivision or development, they shall comply with the following standards when located adjacent to collector or arterial street rights-of-way:
 - a. A minimum eight-foot buffer shall be provided between the back of a sidewalk and a fence or wall. Landscaping, including shade and ornamental trees and shrubs, shall be incorporated within the buffer to soften the appearance of the wall or fence. Per each 100 linear feet or portion thereof, plantings shall be as follows:
 - i. Three shade trees;
 - ii. Three ornamental trees; and

- iii. 15 shrubs.
 - (2) No more than 75 percent of any street frontage shall be occupied by the fence or wall.
 - (3) The required 25 percent openings in the fence or wall frontage shall serve to visually link intersecting streets, view corridors into and out of the development, pedestrian entryways, and parks or open space. Fences or walls that have a surface area that is not more than 50 percent opaque, hedges and screens composed of living plant material, or any land use with a wall or fence lower than 42 inches, may count toward the 25 percent requirement.
- (e) Fence and wall maintenance.
- (1) Owners shall maintain all fences and walls, including those existing prior to the adoption of this chapter, in sound structural condition. Any broken, bent, loose, missing, or removed fence parts shall be repaired or replaced including but not limited to pickets, panels, posts, hinges, handles, locks and latches, braces, bolts, nails, and fastenings.
 - (2) Owners shall maintain all fences and walls free of all forms of deterioration including, but not limited to, rot, rust, termite infestation, missing, chipping, cracking, or peeling paint or stain, and/or cracked, broken, or otherwise deteriorated masonry.
 - (3) Fence and wall repairs and replacement parts must be of the same material, size, shape, color and design as the existing fence or wall. Permits, when required, must be issued and posted in a conspicuous location near the work being performed.
 - (4) It shall be unlawful for any person to install or repair a fence or wall, or any portion of a fence or wall, located on a residential lot, with used or secondhand materials.
 - (5) Fences and walls shall maintain an adequate level of weather proofing by means of applying paint or stain. Areas of chipping, peeling, cracking, missing, flaking, and/or fading paint or stain shall be repainted or re-stained so as to conform to the rest of the fence or wall.
 - (6) It shall be unlawful for any owner(s) to allow a fence or wall on his property to lean in any direction. Leaning fences or fence portions must be straightened and secured. Bracing the exterior of a fence or wall with a post, pole, or any other object is prohibited.

ARTICLE I. IN GENERAL

Sec. 98-1 Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Accessory use or building means a subordinate use or building customarily incident to and located on the same lot occupied by the main use or building.

Adjoining or abutting means touching, in contact with, bounding on, or bordering on. Where all or any part of a lot touches or borders on another lot, it adjoins and abuts such other lot which touches or borders on such street and is situated across the street from the lot or portion thereof. The width of the street shall not be included in calculating the minimum yard requirements required by this section.

Alley means a public way which affords only a secondary means of access to property abutting thereon.

Apartment hotel means an apartment house which furnishes, for the use of its tenants, services ordinarily furnished by hotels, but the privileges of which are not primarily available to the public.

Area, sign shall mean as described in Division 2, *Measurement Of Signs; Permitted Signs; Exceptions*, in [Chapter 66, Signs, of the Code of Ordinances](#).

Balcony, Juliet means an architectural feature that has the appearance of a conventional balcony but that does not extend far enough from the building facade to be usable.

Bed and breakfast means a house used for the temporary residence of motorists or travelers.

Boardinghouse and lodginghouse mean a building other than a hotel occupied as a single housekeeping unit where lodging or meals are provided for five or more persons for compensation, pursuant to previous arrangements for definite periods, but not to the public or transients.

Building means any structure designed or built for the support, enclosure, shelter, or protection of persons, animals, chattels or property of any kind. The term "building" shall include the term "structure."

Building, height of, means the vertical distance from the grade to the highest point of the coping of a flat roof or to the deck line of a mansard roof, or to the mean height level between eaves and ridge for gable, hip and gambrel roofs.

Building line means a line parallel or approximately parallel to the street line, and beyond which, buildings may not be erected.

Building official means any person or officer of the city duly designated by official resolution of the city council having the **qualifications and** duty to enforce the regulations contained in this chapter.

Cabinet sign means a permanent building-mounted or freestanding sign with its letters, numbers, logos, symbols, and artwork on a translucent face panel that is mounted within a metal frame or cabinet that contains the lighting fixtures that illuminate the sign face from behind.

Channel letter sign means a sign with three-dimensional, individually manufactured letters, numbers, logos, symbols, and artwork, that are:

- Covered by clear or translucent acrylic and that contain an enclosed light source to illuminate the letters; or

- Placed in front of the light source to produce a halo effect around each individual letter, number, logo, symbol, and artwork.

Clearance, sign means the minimum distance between the sidewalk, a walkway, or finished grade and the lowest part of a sign.

Clinic means an establishment where patients, who are not lodged overnight, are admitted for examination and treatment by physicians providing medicine, or other health care professionals.

Club means a building or portion thereof or premises owned or operated by a corporation, association, or person for a social, educational or recreational purpose, but not primarily for profit or to render a service which is customarily carried on as a business.

Demolition means an act or process which destroys a site or structure in its entirety, or which destroys a part of a site or structure and permanently impairs its structural, historic or architectural integrity.

Design guidelines for the City of Montgomery means written guidelines adopted by the city, as a reference and guide to provide information on appropriate methods for new construction of buildings within the historic preservation district and rehabilitation or restoration of historic properties. The design guidelines shall remain on file with the city secretary.

District means a section of the city for which regulations governing the use of buildings and premises, the size of yards, and the intensity of use are uniform under this chapter.

Dwelling means any building or portion thereof which is designed for or used for residential purposes.

Dwelling, multifamily, means a building designed for or occupied exclusively by more than one family.

Dwelling, single-family, means a building designed for or occupied exclusively by one family.

Event venue means a structure and/or the grounds of a property used commercially to hold events such as weddings, receptions, meetings, parties, concerts, or conferences that may include accessory on-site preparation and consumption of food and beverages.

Exterior architectural feature means the architectural style, design, general arrangement and components of all of the outer surfaces of a building or structure, as distinguished from the interior surfaces enclosed by such outer surfaces. Exterior architectural features shall include, by way of example but not by limitation, the kind, color, surface texture of the building material and the type and style of all windows, doors, lights, signs and other fixtures appurtenant to such building or structure.

Exterior walls and façades means the outermost covering of a building that is visible from any public right-of-way, street or roadway.

False second story means a facade of a building above the first story of the building that includes a variety of architectural treatments to create the appearance of a second story.

Family means one or more individuals living together as a single housekeeping unit, as distinguished from a group occupying a boardinghouse, lodginghouse, or hotel.

Frontage, block, means all the property on one side of a street between two intersecting streets (crossing or terminating), measured along the line of the street, or, if the street is dead-ended, then all of the property abutting on one side between an intersecting street and the dead-end of the street.

Height, sign shall mean the distance between the topmost portion of the sign structure and the ground elevation at the base of the sign.

Historic landmark means an individual property designated by the city council under this chapter, as having outstanding historical and cultural significance in the nation, region, or community. The designation "historic landmark" recognizes that the historic place, or the building, structure, accessory buildings, fences, or other appurtenances at the place are of basic and vital importance for the preservation of culture and neighborhoods and economic development and promotion of tourism. The initial historic landmarks shall consist of the tracts or parcels of land and existing buildings or structures located at the physical addresses shown on the list and map kept on file in the office of the city secretary. For historical landmark buildings or structures located on a tract or parcel of land exceeding 9,000 square feet in area, only the buildings or structures and a 25-foot buffer around said buildings or structures shall be subject to the provisions of this chapter. Said list and map shall remain on file with the city secretary and the county clerk's office.

Historic preservation district means an area of the city designated by the city council under this chapter, as having definable geographic boundaries, and a significant concentration, linkage or continuity of sites, buildings, or structures united historically or aesthetically by plan, appearance, or physical development. The designation "historic preservation district" recognizes that the component historic buildings, structures, accessory buildings, fences, or other appurtenances of the district are of basic and vital importance for the preservation of culture and neighborhoods, and economic development and promotion of tourism. The initial historic preservation district shall consist of the area shown on the map, and the map shall remain on file with the city secretary.

Hotel means a building in which lodging, or boarding and lodging, are provided and offered to the public for compensation and in which ingress and egress to and from all rooms is made through an inside lobby or office supervised by a person in charge at all hours. As such, it is open to the public, in contradistinction to a boardinghouse, a lodginghouse, or an apartment.

Lot means a parcel of land occupied or intended for occupancy by a use permitted in this chapter, including one main building together with its accessory buildings, and the open spaces and parking spaces required by this chapter, and having its principal frontage upon a street or upon an officially approved place. The term "lot" includes the term "plot."

Lot, depth of, means the mean horizontal distance between the front and rear lot lines.

Main entryways and corridors means the two primary, intersecting thoroughfares in the city, namely State Highway 105 and State Farm Road 149, along with the Lone Star Parkway.

Metal panels means profiled metal panels, deep-ribbed panels and concealed fastener systems.

Microbrewery means a small, independently owned establishment where beer, wine, or other alcoholic beverage is brewed, fermented, or distilled for on-premises consumption and/or distribution.

Micro-manufacturing means the retail or business-to-business production of artisan goods that are produced in small quantities using small hand tools or light machinery.

Modification, structural (sign, building, or lighting) shall mean any change to a sign, building, or lighting that significantly alters its structure, size, height, shape, materials, or lighting intensity. Changes that do not significantly alter the appearance, structure, or functionality of a sign, building, or lighting, such as routine maintenance, minor repairs, changing out light sources, or updating existing text or graphics without changing the overall design, are not considered substantial modifications.

Motor court and motel mean a building or group of buildings used for the temporary residence of motorists or travelers.

Nonconforming structures means commercial, residential, and/or institutional buildings or other structures existing within an historic preservation district but not possessing the character nor the designation of an official historic landmark.

Nonconforming use, building or yard means a use, building, or yard, existing legally at the time of passage of the ordinance from which this chapter is derived, which does not, by reason of design or use, conform with the regulations of the district in which it is situated.

Ordinary maintenance means repairs and other work necessary for the upkeep of buildings and other structures that may include, but is not limited to, minor building material replacement, cleaning, caulking, painting, etc. Ordinary maintenance does not require a building permit.

Parking space, off-street, means an area of not less than 162 square feet (measuring approximately nine feet by 18 feet) not on a public street or alley, surfaced with an all-weather surface, enclosed or not enclosed. The parking space shall be durably surfaced and so arranged to permit satisfactory ingress and egress of an automobile. A public street shall not be classified as off-street parking in computing the parking requirements for any use.

Place means an open, unoccupied space, other than a street or alley, permanently reserved as the principal means of access to abutting property.

Planning and zoning approval means an indication on the building permit evidencing the approval of the planning and zoning commission, signed and dated by the chairperson of the commission, for the installation, construction, alteration, change, restoration, removal, or demolition of an exterior architectural feature, resource or other significant appurtenance of any historic landmark or of any building or structure located within the historic preservation district to be issued in cases further defined in this chapter, where approval for the same is required.

Story means that portion of a building, other than a cellar, included between the surface of any floor and the surface of the floor next above it, or, if there is no floor above it, then the space between the floor and the ceiling next above it.

Street means a public or private thoroughfare which affords the principal means of access to the abutting property.

Street line means a dividing line between a lot, tract or parcel of land and a contiguous street.

Structural alterations means any changes in the supporting members of a structure, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected which requires location on the ground, or attached to something having a location on the ground, including, but not limited to, buildings of all types, advertising signs, billboards, and poster panels, but exclusive of customary fences, or boundary or retaining walls.

Temporary building means any structure, transportable in one or more sections, which is built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities.

Townhouse shall mean a structure that is one of a series of dwelling units designed for single-family occupancy, where the dwelling units are structurally connected or immediately adjacent to each other without side yards between individual dwelling units, as depicted below.



Upper-story residential means residential dwelling units located on the upper floors of a building where the first floor of the building is used for nonresidential purposes.

Used for includes the meaning "designed for" or "intended for."

Visual barrier means a continuous unbroken and solid screen of masonry construction, or fencing, natural hedge or vegetation at maturity (two years), or a combination thereof, of not less than six feet measured from the existing natural ground level. Non-vegetative barriers must be a maximum of eight feet in height measured from the existing natural ground level. Vegetation must consist of any combination of trees, shrubs, berms, or other natural flora. The visual barrier improvements shall be adequate to accommodate the proposed screening, and must be a minimum of one foot in width for non-vegetative screening and five feet in width for vegetative screening, provided it creates a visual barrier. The city shall not be responsible for the maintenance of required screening. Deed restrictions and covenants, if any, filed of record and running with the land for any tract, shall make provisions for a maintenance entity authorized to provide maintenance of the visual barrier improvements through assessment of the costs thereof to lot owners.

Wetland means any swamps, marshes or bogs or other areas classified as jurisdictional wetland which would require appropriate permits from the Corps of Engineers for any construction.

Window, clerestory means an upperstory window or row of windows, typically wider than they are tall, the primary purpose of which is to let in sunlight.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward except as otherwise provided in this chapter. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of the rear yard, the minimum horizontal distance between the lot line and the main building shall be used.

Yard, front, means a yard extending across the front of a lot between the side lot lines, and being the minimum horizontal distance between the street or place line and the main building or any projections thereof other than the projections of the usual uncovered steps, uncovered balconies, or uncovered porch. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimensions.

Yard, rear, means a yard extending across the rear of a lot and being the required minimum horizontal distance between the rear lot line and the rear of the main building or any projections thereof other than the projections of uncovered steps, enclosed balconies or unenclosed porches. On all lots, the rear yard shall be in the rear of the front yard.

Yard, side, means a yard between the main building and the side line of the lot, extending from the required front yard to the required rear yard and being the minimum horizontal distance between a side lot line and the side of the main building or any projections thereto.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-2 Violations; penalty.

- (a) It shall be the duty of the building official to enforce the provisions of this chapter, and to refuse to issue any permit for any building, or for the use of any premises, which would violate any of the provisions of this chapter.
- (b) In case any building is erected, constructed, reconstructed, altered, repaired, or converted or any building or land is used in violation of this chapter, the building official is authorized and directed, after notifying the property owner of the violation and allowing ten days for correction, to remedy any such violation. If the building official determines that a good faith effort is being made to correct the violation, the grace period can be extended.
- (c) Any person who shall violate any of the provisions of this chapter or fail to comply therewith or with any of the requirements thereof, or who shall build or alter any building in violation of any detailed statement or plan submitted and approved under this chapter, shall be guilty of a misdemeanor and shall be liable to a fine as prescribed in section 1-13 and each day such violation shall exist, after the ten days allowed for correction and any additional correction time approved by the building official, shall constitute a separate offense. The owner of any building or premises, or part thereof, where anything in violation of this chapter shall be placed or shall exist, and any architect, engineer, builder, contractor, agent, person or corporation employed in connection therewith and who may have assisted in the commission of any such violation, shall be guilty of a separate offense, and upon conviction thereof, shall be punished as provided in this section.
- (d) In addition to the penalties provided for herein, the city may bring suit in a court having jurisdiction thereof to abate or enjoin any violations of the provisions of this chapter, and obtain such remedies as may be available at law or in equity.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-3 Interpretation; conflicting regulations or agreements.

In interpreting and applying the provisions of this chapter, the provisions shall be held to be the minimum requirements for the promotion of the public safety, health, convenience, comfort, prosperity or general welfare. It is not intended by this chapter to interfere with or abrogate or annul any easements, covenants or other agreements between parties; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or premises or upon height of buildings, or requires larger open spaces, than are imposed or required by other ordinances, rules, or regulations or by easements, covenants or agreements, the provisions of this chapter shall govern.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Secs. 98-4—98-24 Reserved.

ARTICLE III. DISTRICTS AND ZONING MAP

DIVISION 1 GENERALLY

Sec. 98-84 Establishment of districts and boundaries.

- (a) For the purposes of this chapter, the city is hereby divided into ~~sevensix~~ districts as follows:
- (1) District R-1: Single-family residential district.
 - (2) District R-2: Multifamily residential district.
 - (3) District B: Commercial district.
 - (4) District ID: Industrial district.
 - (5) District I: Institutional district.
 - (6) District PD: Planned development district.
 - (7) **District DT: Downtown district.**
- (b) The location and boundaries of the districts established in this section are shown upon the official zoning map. The zoning map, together with all notations, references and other information shown thereon and all amendments thereto, shall be as much a part of this chapter as if fully set forth and described in this chapter. The zoning map, properly attested, is on file in the office of the city secretary. Any zoning regulations cannot supersede valid deed restrictions, but shall supplement any such restrictions.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-85 Official zoning map.

The official zoning map of the city shall be kept in the office of the city secretary. The official map shall be kept current and the copies thereof, therein provided for, by entering on such maps any changes which the city council may from time to time order by amendments to the zoning chapter and map. The city secretary, on the adoption of the ordinance from which this chapter is derived, shall affix a certificate identifying the map in his office as the official zoning map of the city.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-86 Interpretation of district boundaries.

Where uncertainty exists with respect to the boundaries of any of the districts established by this chapter as shown on the zoning map, the following rules shall apply:

- (1) Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines or highway right-of-way lines, such centerlines, street lines, or highway right-of-way lines shall be construed to be the boundaries.
- (2) Where district boundaries are so indicated that they approximately follow the lot lines, such lot lines shall be construed to be the boundaries.
- (3) Where district boundaries are so indicated that they are approximately parallel to the centerlines or street lines of streets, or the centerlines of right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the zoning

map. If no distance is given, such dimension shall be determined by the use of the scale on the zoning map.

- (4) In unsubdivided property, the district boundary lines on the zoning map shall be determined by use of the scale appearing on the map.
- (5) Whenever any street, alley or other public way is vacated by official action of the city council, the zoning district adjoining each side of such street, alley or public way shall be automatically extended to the center of such vacated area, and thereafter all land included in the vacated area shall then and henceforth be subject to all regulations of the extended districts.
- (6) Where the streets or alleys on the ground differ from the streets or alleys as shown on the zoning map, the streets or alleys on the ground shall control.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-87 Compliance with district regulations.

Except as specifically provided in this chapter:

- (1) No land shall be used except for purposes permitted in the district in which it is located.
- (2) No building shall be erected, converted, enlarged, reconstructed, moved or structurally altered, nor shall any building be used, except for a use permitted in the district in which such building is located.
- (3) No building shall be erected, converted, enlarged, reconstructed or structurally altered to exceed the height limit established in this chapter for the district in which such building is located.
- (4) No building shall be erected, converted, enlarged, reconstructed or structurally altered except in conformity with the area regulations of the district in which such building is located.
- (5) No building shall be erected or structurally altered to the extent specifically provided in this chapter except in conformity with the off-street parking regulations of the district in which such building is located.
- (6) The minimum yards, parking spaces, and open spaces, including lot area per family, required by this chapter for each and every building existing at the time of passage of the ordinance from which this chapter is derived, or for any building hereafter erected, shall not be encroached upon or considered as part of the yard or parking space or open space required for any other building, nor shall any lot area be reduced below the requirements of this chapter for the district in which such lot is located.
- (7) Every building hereafter erected or structurally altered shall be located on a lot as defined in this chapter, and, except as provided in this chapter, there shall not be more than one main building on one lot.
- (8) Every building hereafter erected or structurally altered shall in every way conform to any other city ordinance affecting such property.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-88 Table of permitted uses and special uses.

- (a) Permitted uses and special uses in the various zoning districts are as specified in the following table:

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Accessory uses						X	X
Aerial or ground survey			X				
Air conditioning sales, retail, complete enclosed (services incidental)			X				
Air conditioning—Refrigeration services repair (completely enclosed) with no installation of central units—Heating or cooling							X
Airport (nongovernmental)							X
Air product manufacturing				X			
Alcoholic beverage sales off premises			X				
Alcoholic beverage sales on premises						X	X
Alcoholic beverage storage			X				
Altering and repairing of wearing apparel			X			X	
Ambulance service			X				
Amusement arcade							X
Amusement park (commercial)							X
Animal shelter or dog pound (nongovernmental)							X
Antique store (completely enclosed)			X			X	
Apartment hotel							X
Apothecary, limited to the sale of pharmaceutical and medical supplies			X			X	
Apparel and accessory store			X			X	
Appliance repair (completely enclosed)			X			X	
Armory							X
Art gallery and/or museum (commercial retail sale of objects d'art only)			X			X	
Asphalt or creosote manufacturing or treatment							X
Assisted living		X***	X				
Automobile and truck sales and service (new and used) (service completely enclosed)			X				
Automobile car wash			X				
Automobile filling station and/or service (all repair in district to be completely enclosed)			X				
Automobile glass sales and installation			X				
Automobile muffler sales and installation (completely enclosed)			X				
Automobile parking lots or parking garages (commercial)							X

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Automobile rental			X				
Automobile repair			X				
Automobile upholstery sales and installation (completely enclosed)			X				
Automobile wrecking, dismantling or salvage (enclosed by fence)							X
Aviary							X
Bait store			X				
Bakery (retail)			X			X	
Bakery (wholesale)			X				
Barber shop			X			X	
Beauty salon			X			X	
Bed and breakfast	X		X			X	
Churches					X		
Community home as required by V.T.C.A., Human Resources Code § 123.003	X	X***					
Compressed gas manufacturing, repacking and/or storage							X
Dairy equipment (wholesale) (completely enclosed)			X				
Dairy products sales (retail)			X			X	
Dairy products sales (wholesale)			X				
Delicatessen			X			X	
Department store			X			X	
Dog pound or animal shelter (nongovernmental)							X
Drug manufacture							X
Drug sales (wholesale)			X				
Drugstore			X			X	
Dry cleaning pickup and pressing shops			X			X	
Dry cleaning plant							X
Dry goods store			X			X	
Dry goods (wholesale) (completely enclosed)			X				
Electric power generator station (primary station)							X
Electric repair (appliances) (completely enclosed)			X			X	
Electric repair shop (heavy equipment)				X			
Electrical substation, to be enclosed by a fence or wall of minimum six feet in height, with physical installation being enclosed by a barrier which constitutes a visual screen. Visual screening would not be required in ID district				X			

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Electrician			X				
Electroplating			X				
Elevator maintenance and service				X			
Event venue			X			X	
Exterminator (completely enclosed)			X				
Farm equipment sales and service (completely enclosed in B-2 district)			X				
Farm supplies			X				
Farming and truck gardening, but not for retail sales (permitted in any district)				X			
Feed store or seed and fertilizer			X				
Felt manufacture (cloth)				X			
Fish market (fenced outside storage)				X			
Fish market (retail)			X			X	
Fish market (wholesale)			X				
Fix-it shop (completely enclosed)			X			X	
Floor covering sales (retail completely enclosed)			X				
Floral shop (completely enclosed)			X			X	
Florist (wholesale) (completely enclosed)			X				
Food locker plant (retail)			X				
Food products (wholesale storage and sales)			X				
Food products manufacture and processing (not rendering)				X		X	
Food store			X			X	
Food to go (retail, no curbside service)			X			X	
Foundry							X
Freight depot (railroad and/or truck)				X			
Fruit and produce (wholesale)			X				
Fruit and vegetable stand or store			X			X	
Funeral home, mortuary or undertaking establishment			X				
Fur dyeing, finishing and storing (no tanning, no hide storage)				X			
Furniture (wholesale sales)			X				
Furniture repair and upholstery (completely enclosed)			X			X	
Furniture repair and upholstery (fenced outside storage)			X				

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Furniture store, retail (completely enclosed) (no repair)			X			X	
Furniture store, retail (fenced outside storage)			X				
Garage, public or storage				X			
Garden specialty store			X			X	
Gas filling station and/or service (all repairs to be completely enclosed)			X				
Gas regulation station (screening)				X			
Gift shop (completely enclosed)			X			X	
Glass (retail sales) (service incidental to sales) (completely enclosed)			X			X	
Glass (wholesale sales)			X				
Glass manufacturing and glass products manufacturing				X		X	
Golf course and country club, but no driving range, pitch and putt or miniature golf course							X
Golf driving range, pitch-and-putt or miniature golf course							X
Greenhouse or nursery, retail			X				
Greenhouse or nursery, wholesale				X			
Grocery (wholesale)			X				
Grocery store			X			X	
Gymnasium (commercial)			X				
Hair products manufacturing and processing				X			
Hardware manufacture				X		X	
Hardware sales (wholesale)			X				
Hardware store			X			X	
Heliport			X				
Hobby supply store			X			X	
Hosiery manufacture			X				
Hospital or sanitarium			X				
Hotel			X			X	
Ice cream and ice milk (retail)				X		X	
Ice cream manufacturer (wholesale)				X			
Ice cream store			X			X	
Ice house (no on-premises consumption of alcoholic beverages in B-1 district)			X				
Ice manufacture				X			

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Insulation manufacture and fabrication				X			
Interior decorating studio			X			X	
Jewelry store			X			X	
Junkyard, salvage yard, including storage, baling or selling of rags, papers, iron or junk, need not be enclosed within a structure, but must be enclosed within a fence at least six feet high and adequate to obstruct view, noise and passage of persons; chain-link or similar fencing may be permitted if screen planting is provided							X
Laboratory (dental or medical)			X				
Laboratory (research)			X				
Laboratory (testing)			X				
Landfill							X
Laundry and dry cleaning (self service)			X			X	
Laundry or dry cleaning (pickup station)			X				
Laundry plant				X			
Leather goods or luggage store			X				
Library (nongovernmental)						X	X
Linen supply, diaper service or uniform supply			X				
Loan office			X			X	
Locksmith			X			X	
Lumber yard and building materials (wholesale)			X				
Machine shop				X			
Machine, tools and construction equipment sales and service			X	X			
Marine and boat manufacturing				X			
Marine and boat storage							X
Mattress manufacturing and rebuilding				X			
Massage parlor			X				
Metal products fabrication				X			
Micro-brewery				X		X	
Micro-manufacturing				X		X	
Milliner (custom)			X				
Millinery manufacture				X			
Millwork and similar wood products manufacture				X		X	
Mobile food unit			X*	X	X	X*	
Mobile food court						X**	X**

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Motel			X				
Motorcycle sales and service			X				
Moving and transfer company				X			
Music store			X			X	
Nail salon			X			X	
News stand			X				
Night club/dance hall						X	X
Novelty and souvenir manufacture				X			
Nursery, daycare, or kindergarten (care of up to six children)	X	X***					
Nursery, daycare, or kindergarten (care of up to 20 children)			X				
Nursery, daycare, or kindergarten (care of over 20 children)			X				
Nursing home		X***	X				
Office equipment and furniture manufacture				X			
Office equipment and supplies (retail)			X			X	
Office equipment and supplies (wholesale)			X	X			
Offices (professional)			X			X	
Oil and well supplies and machinery sales				X			
Optical goods (retail)			X			X	
Optical goods (wholesale)			X				
Optician			X			X	
Packing and gasket manufacture				X			
Packing plant (no rendering)							X
Paint and wallpaper store			X			X	
Paper produce manufacture				X			
Paper supplies (wholesale)				X			
Parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency					X	X	
Passenger depot (railroad or bus)						X	X
Pawnshop (completely enclosed)			X			X	
Pecan shelling				X			
Pet shop (completely enclosed)			X			X	
Petroleum storage (wholesale)				X			
Photographic equipment and supplies sales			X	X			

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Photographic studio			X				
Picture framing			X			X	
Pipe storage				X			X
Pipeline and electrical transmission lines							X
Playground equipment manufacture				X			
Plumber			X				
Plumbing fixture sales (completely enclosed) (retail)			X			X	
Plumbing fixture sales (wholesale)			X	X			
Printer			X	X			
Public buildings, including libraries, museums, police stations and fire stations					X	X	
Radio station or studio, without transmitter tower						X	X
Radio station with transmitter tower							X
Reading room			X			X	
Recycling plant							X
Reducing salon			X			X	
Refrigerator equipment manufacture				X			
Restaurant			X			X	
Riding stable or academy							X
Roominghouse or boardinghouse							X
Rug and/or carpet sales			X			X	
Rug cleaning				X			
Sand or gravel storage yard				X			
Schools					X		
Shoe manufacture				X			
Shoe repair shop			X			X	
Shoe sales (retail)			X			X	
Shoe sales (wholesale) (completely enclosed)			X				
Sign, advertising (excluding business signs)			X				
Sign shop			X	X			
Sign shop (completely enclosed)			X				
Skating facility (outdoor)							X
Skating rink (enclosed)			X				
Small animal clinic or kennel			X				
Small animal clinic or kennel (completely enclosed)			X			X	

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Sporting goods store			X			X	
Sporting goods (wholesale) (completely enclosed)			X	X			
Stamp, coin sales (retail)			X			X	
Stationery sales			X			X	
Stone cutting or monument manufacturing				X			
Stone monument sales			X				
Stone quarry or gravel pit				X			
Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, painting, etc.			X			X	
Surgical or dental supplies store			X			X	
Tanning salon			X			X	
Tattoo parlor							X
Tavern						X	X
Taxidermist							X
Television station or studio without transmitter tower			X			X	
Television station with transmitter tower							X
Textile manufacture				X			
Theater (indoor)			X			X	
Theater (outdoor, including drive-in theaters)							X
Tile manufacturer (ceramic)				X			
Tobacco processing				X			
Tobacco store			X				
Tool manufacture				X			
Tool rental (completely enclosed)			X				
Tool rental (fence outside storage)			X	X			
Toy manufacture			X	X			
Toy store			X			X	
Trailer manufacture				X			
Trailer sales			X				
Transit vehicle storage and service				X			
Truck repair and maintenance			X	X			
Truck stop							X
Variety store			X			X	
Venetian blinds and metal awning fabrication, repair and cleaning				X			
Veterinarian (animal on premises)			X				
Warehousing				X			

Table 1. Table of Permitted Uses

Permitted Uses	R-1	R-2***	B	ID	I	DT	CC
Watch repair			X			X	
Water or sewage pumping (nongovernmental)							X
Water storage (overhead)							X
Welding shop				X			
Well drilling contractors			X	X			

* Mobile food units in the historic overlay zone requires special use permit.

** Mobile food courts require a special use permit.

***All uses in the R2 Multifamily district require a special use permit.

- (b) If a proposed use is not specifically listed in this table, the City Administrator may interpret the proposed use as functionally similar to a use that is listed. The proposed use is then permitted, permitted with special use permit, or prohibited in the same districts as its functionally similar use as denoted in the table..
- (c) Any use not specifically permitted in this table, or in the use regulations of each district set out below, or classified as functionally similar to a listed use by the City Administrator as described in paragraph (b), above, shall require a special use permit (see section 98-27, special use permits).

(Ord. No. 2014-03 , § 1, 5-20-2014; Ord. No. 2023-14 , § 2, 6-13-2023)

Secs. 98-89—98-119 Reserved.

DIVISION 2 DISTRICT R-1 SINGLE-FAMILY RESIDENTIAL

Sec. 98-120 Intent and purpose; applicability of recorded plans and plats.

- (a) District R-1 includes land within the city limits used or subdivided for single-family residential purposes and associated uses, and in accordance with the land use plan. This district is designed to provide sufficient suitable residential neighborhoods, protected from incompatible uses, provided with necessary facilities and services.
- (b) For the purposes of regulating District R-1, the land use restrictions as contained in the recorded plans, plats, re-plats or other use instruments shall control as adopted in Ordinance No. 1994-4, as authorized by V.T.C.A., Local Government Code § 212.004 .

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-121 Use regulations.

Buildings or premises in District R-1 shall be used only for the following purposes:

- (1) Uses permitted in an R-1 district in the table in section 98-88.

- (2) Single-family dwellings, including structures which also house immediate relatives of the family (including their parents, adult children, brothers, sisters, uncles, aunts, nephews and nieces) who are living together and sharing expenses for convenience or necessity and not as commercial renters.
- (3) Existing churches.
- (4) Existing parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency.
- (5) Existing public buildings, including libraries, museums, police stations and fire stations.
- (6) Existing schools, such as public elementary, intermediate or high schools.
- (7) Water supply reservoirs, pumping plants and towers.
- (8) Accessory uses customarily incident to the uses listed in this section and located on the same lot therewith, not involving the conduct of a retail business, and as defined in this subsection. The term "accessory use" shall include all home occupations which shall comply with the following standards and criteria in addition to any other standards imposed by the city council when such use is permitted by specific use permit:
 - (a) The home occupation shall be conducted only within the principal dwelling.
 - (b) No more than one additional person other than the residents residing on the premises shall be employed or engaged in the home occupation at the premises.
 - (c) There shall be no alteration or change to the outside appearance, character or use of the dwelling or premises, or other visible evidence of the conduct of such home occupation, other than one sign not exceeding two square feet in area, non-illuminated, and mounted flat against the wall of the principal building.
 - (d) No home occupation shall occupy more space than 25 percent of the total floor area of a residence, exclusive of any open porch, attached garage, or similar space not suited for or intended to be occupied as living quarters; provided, however, that in no event shall such home occupation occupy more than 600 square feet.
 - (e) No equipment or process shall be used in such home occupation which creates noise, vibrations, glare, fumes, odors or electrical interference detectable to the normal senses outside the dwelling unit. No equipment or process shall be used which creates visual or audible interference in any radio or television receivers off the premises.
 - (f) No articles or materials used in connection with such home occupation shall be stored outside on the premises.
 - (g) No more than one automobile or truck, whose size shall not be larger than a stock one-ton panel or pickup truck, used in connection with such home occupation, shall be permitted to park on the premises in question, or off the premises in question and within view from surrounding properties.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-122 Area regulations.

- (a) *Size of yards.* Size of yards in District R-1 shall be as follows:

- (1) *Front yard.* There shall be a front yard having a depth of not less than 25 feet from the property line, except that, where lots face on a major street, the front building line shall be 35 feet from the property line.
- (2) *Side yard on main thoroughfare.* There shall be a side yard on each side of the lot having a width of not less than ten feet. A side yard adjacent to a side street shall not be less than 15 feet from the property line to the building line, except, where the lots side on a major street, the building line shall be not less than 25 feet from the side street property line.
- (3) *Rear yard.* There shall be a rear yard having a depth of not less than ten feet from the property line.
- (b) *Size of lots.* Size of lots shall be approved by the city council on the basis of the district in which they live.
 - (1) *Lot area.* No building shall be constructed on or moved onto any lot of less than 9,000 square feet.
 - (2) *Lot width.* The width of the lot shall not be less than 75 feet. Radial lots shall have a minimum width of 75 feet at and for a distance of 30 feet behind the building line.
 - (3) *Lot depth.* The average depth of the lot shall not be less than 120 feet.
 - (4) *Corner lots.* Corner lots with a width of less than 90 feet are to be at least five feet wider than average of the interior lots in the block. Corner lots with a width of less than 90 feet adjacent to a major thoroughfare are to be at least 15 feet wider than the average of interior lots in the block.
 - (5) *Lots on cul-de-sacs.* Lots on cul-de-sacs shall be 9,000 square feet, with the width and depth to be determined by the development of the cul-de-sac.
 - (6) *Existing substandard lots.* Where a lot having less area, width or depth than required in this section existed upon the effective date of the ordinance from which this chapter is derived, the regulations in this section shall not prohibit the lot owner from erecting a single-family dwelling thereon or moving a single-family dwelling onto the property.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-123 Parking requirements.

Off-street parking spaces shall be provided in District R-1 in accordance with the requirements for specific uses set forth in article IV of this chapter.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Secs. 98-124—98-144 Reserved.

DIVISION 3 DISTRICT R-2 MULTIFAMILY RESIDENTIAL

Sec. 98-145 Use regulations.

A building or premises in District R-2 shall not be used except for the following purposes:

- (1) Uses permitted in an R-2 district in the table in section 98-88, require a special use permit.
- (2) Any use permitted in the R-1 district requires a special use permit.
- (3) Multifamily dwellings, including duplexes and town homes require a special use permit.
- (4) City homes and condominiums require a special use permit.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-146 Height regulations.

No building in District R-2 shall exceed 45 feet or three stories in height.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-147 Area regulations.

(a) *Size of yards.* Size of yards in District R-2 shall be as follows:

- (1) *Front yard.* Front yard requirements are the same as for District R-1.
- (2) *Side yard.* There shall be a side yard on each side of the lot having a width of not less than ten feet; however, a side yard adjacent to a side street shall not be less than 25 feet on a major thoroughfare and 15 feet on a minor thoroughfare. No side yard for allowable nonresidential uses shall be less than 25 feet.
- (3) *Rear yard.* There shall be a rear yard having a depth of not less than ten feet from the property line.

(b) *Size of lots.*

- (1) *Lot area.* No structure shall be constructed on any lot less than 9,000 square feet. No building containing two or more dwelling units shall be constructed on any lot or tract of less than 9,000 square feet. No lot shall contain less than 900 square feet per ground level dwelling unit; provided, however, that this shall not be applicable to hotels, apartments, or motels where no cooking is done in any individual unit.
- (2) *Lot width.* The width of the lot shall not be less than 75 feet at the front street building line, nor shall its average width be less than 75 feet before it is subdivided for construction of townhouses or condominiums.
- (3) *Lot depth.* The average depth of the lot shall not be less than 120 feet, except that any corner lots with a width of not less than 90 feet adjacent to a major thoroughfare must be at least 15 feet wider than the average of interior lots in the block before construction of townhouses or condominiums.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-149. Building design regulations.

All developments within the R-2 Multifamily Residential district shall comply with the building design standards of [ARTICLE VIII. BUILDING DESIGN.](#)

Secs. 98-149—98-177 Reserved.

~~Secs. 98-149—98-177 Reserved.~~

DIVISION 4 DISTRICT B COMMERCIAL

Sec. 98-178 Purpose.

District B is established to provide for a wide range of business uses within enclosed areas as well as the other uses provided for in this division.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-179 Use regulations.

A building or premises in District B shall be used only for the following purposes:

- (1) Uses permitted in a B district in the table in section 98-88.
- (2) Retail stores and other local business uses supplying everyday shopping and services, subject to the following restrictions and performance standards:
 - (a) The use shall be conducted wholly within the enclosed building.
 - (b) Required yards shall not be used for the storage of merchandise, vehicles or equipment.
 - (c) No use, activity or process shall produce excessive light, smoke, dust, noise, vibrations or noxious odors that are perceptible without instruments by the average person at the property lines of a site.
 - (d) Storing of containers and waste material will not be permitted in front and side yards.
 - (e) All outdoor lighting shall be shielded or directed away so that direct light or glare does not impact adjacent residential land uses.
 - (f) All storage and mechanical equipment shall be enclosed in a structure and completely screened from view.
- (3) Any use permitted in District R-1, single-family residential.
- (4) The performance standards set out in subsection (2) of this section shall not apply to special events formally sanctioned by the city.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-180 Height regulations.

No building in District B shall exceed 45 feet in height.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-287 Area regulations.

(a) *Size of yards.* Size of yards in District B shall be as follows:

- (1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street, and 35 feet if located on a major thoroughfare. No parking, storage or similar use shall be allowed in front yards, except that automobile parking will be permitted in such yards if separated by at least 100 feet from any R district.
- (2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R district or adjoining any lot located in the District B that is being used for an R district purpose. Otherwise, no side yard is required. No parking, storage or similar use shall

be allowed in any required side yard or in any required side street adjoining an R district, without proper enclosure.

- (3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-1 district or abutting any lot located in the District B that is being used for an R district purpose. No storage or similar use shall be allowed in any required rear yard adjoining or abutting an R district.
 - (4) *Barrier.* A visual barrier shall be constructed and permanently maintained on any lot adjoining or abutting an R district.
- (b) *Size of lots; minimum building size.*
- (1) There are no limitation requirements; except, there shall be a minimum building size of 750 square feet. Where a commercial lot existed on the effective date of the ordinance from which this chapter is derived that was too small to accommodate a 750-square-foot structure, a smaller structure would be allowed.
 - (2) Existing residential structures located in District B on the effective date of the ordinance from which this chapter is derived can be converted to commercial or professional use, even if they are below the minimum building size specified in this section.
 - (3) Residential, commercial or institutional buildings in existence for more than 25 years, located inside or outside the city limits, may be moved into District B for commercial or professional use, even if they are below the minimum building size specified in this section, as long as they comply with all other ordinances of the city.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-182. Building design regulations.

All developments within the B Commercial district shall comply with the building design standards of [ARTICLE VIII. BUILDING DESIGN.](#)

Secs. 98-183—98-200 Reserved.

DIVISION 5 DISTRICT ID INDUSTRIAL

Sec. 98-201 Description.

District ID industrial is for industrial purposes as described herein.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-202 Purpose.

District ID is established to provide for a wide range of industrial uses which are conducted within completely enclosed buildings, and where such use will not be objectionable because of excessive light, smoke, dust, noise, vibration or odor.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-203 Use regulations.

A building or premises in District ID shall be used only for light and heavy industrial purposes as set out in Table 1 in section 98-88.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-204 Height regulations.

No building in District ID shall exceed 45 feet in height.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-205 Area regulations.

(a) *Size of yards.* Size of yards in District ID shall be as follows:

- (1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street, and 35 feet if located on a major thoroughfare. No storage or similar use shall be allowed in front yards.
- (2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R or PD district. Otherwise, a side yard of ten feet is required. No storage or similar use shall be allowed in any required side yard or in any required side street adjoining an R or PD district, without proper enclosure.
- (3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-1 district or PD district. No storage or similar use shall be allowed in any required rear yard adjoining or abutting an R or PD district. Otherwise, a rear yard of ten feet is required.
- (4) *Barrier.* A visual barrier shall be constructed and permanently maintained on any lot adjoining or abutting an R or PD district.

(b) *Size of lots.*

- (1) *Lot area.* The minimum lot area shall be 10,000 square feet.
- (2) *Lot width.* The minimum lot width shall be 100 feet.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-206 Parking requirements.

Off-street parking spaces shall be provided in District ID in accordance with the requirements for specific uses set forth in article IV of this chapter.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Secs. 98-207—98-235 Reserved.

DIVISION 6. DISTRICT I INSTITUTIONAL

Sec. 98-236 Purpose.

District I is established to provide for a wide range of institutional type uses described herein.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-237 Description.

A building or premises in District I shall not be used except for the purposes set out in the table in section 98-88.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-238 Height regulations.

No building or accessories to a building in District I institutional shall exceed 75 feet in height.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-239 Area regulations.

(a) *Size of yards.* Size of yards in District I institutional shall be as follows:

- (1) *Front yard.* There shall be a front yard having a minimum depth of 25 feet from the front property line if located on a minor street, and 35 feet if located on a major thoroughfare. No storage or similar use shall be allowed in front yards, except that automobile parking will be permitted in such yards if separated by at least 100 feet from any R or PD district.
- (2) *Side yard.* A side yard of not less than 15 feet in width shall be provided on the side of a lot adjoining a minor street (not including easements). A side yard of not less than 25 feet in width shall be provided on the side of a lot adjoining an R or PD district. Otherwise, a side yard of ten feet is required. No storage or similar use shall be allowed in any required side yard or in any required side street adjoining an R or PD district, without proper enclosure.
- (3) *Rear yard.* A rear yard of 25 feet is required on all lots abutting an R-1 district. No storage or similar use shall be allowed in any required rear yard adjoining or abutting an R or PD district. Otherwise, a rear yard of ten feet is required.
- (4) *Barrier.* A visual barrier shall be constructed and permanently maintained on any lot adjoining or abutting an R or PD district.

(b) *Size of lots.* There are no limitations on the size of lots.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-240 Parking requirements.

Off-street parking shall be provided in District I institutional in accordance with the requirements for specific uses set forth in article IV of this chapter.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Secs. 98-241—98-258 Reserved.

DIVISION 7 DISTRICT PD PLANNED DEVELOPMENT

Sec. 98-259 Purpose.

- (a) The purposes of the Planned Development (PD) special purpose zoning district are:
- (1) *Flexibility and Innovation.* To allow regulatory flexibility to:
 - a. Achieve development that is in accordance with the City's Comprehensive Plan;
 - b. Achieve economy and efficiency in the use of land, natural resources, energy, and in the provision of public services and utilities;
 - c. Protect and preserve natural resources and natural features;
 - d. Encourage the creation of useful open space particularly suited to the proposed development and the parcel on which it is located; and
 - e. Provide appropriate development to satisfy the needs of residents of the City of Montgomery.
 - (2) *Land Use Compatibility.* To require development to be laid out so that proposed uses, buildings, and site improvements relate to each other and to adjoining existing uses and to the public realm in such a way that they will be compatible, with no material adverse impact of one use on another.
 - (3) *Redevelopment.* To generate the reuse and/or redevelopment of sites where an orderly change of use is determined to be desirable, especially where reuse is restricted because of existing nonconformities, physical development, or the constraints of conventional zoning standards.
 - (4) *Ensure Against Misuse.* To establish standards to ensure against misuse of the increased flexibility.
- (b) Planned Developments shall meet a higher standard in the eyes of the city. The PD district shall not be used for the sole purpose of circumventing the requirements of the zoning ordinance, securing an agreement between an applicant and nearby property owners to receive zoning approval, or assigning responsibility to the City for private deed covenants or restrictions. Planned development proposals should clearly illustrate a benefit to the city that exceeds any normal benefit to the city found in the normal zoning regulations.

~~District PD is intended to provide significant design flexibility, in order to encourage innovative and/or mixed-use developments within the city that would not otherwise be permitted under this chapter. It is not intended for nominal changes to the existing ordinance requirements that are established in the various zoning districts. The district allows for deviation from standard ordinance requirements as long as those deviations continue to meet the intent of this chapter. The district allows for an appropriate combination of uses, which may be planned, developed, or operated as integral land units, such as developments that incorporate various types of residential and nonresidential uses into the overall project.~~

~~{Ord. No. 2014-03, § 1, 5-20-2014}~~

Sec. 98-260 Approved planned developments.

- (a) Planned developments that may be approved will appear on the zoning map and will be referenced by a planned development number (PD-#) and the zoning district classification and/or uses authorized by the particular zoning case.

(Ord. No. 2014-03, § 1, 5-20-2014)

- (b) ~~In the event of the expiration of an approved PD, the developer or the City shall initiate the rezoning of the subject property to zoning designation shall revert back solely to the base district or another PD district. If base district is unknown, it shall revert to the base district shown on the most recently adopted future land use map. Another zoning district may be designated through the same process as a rezoning if another zoning district is determined by the Director to be more appropriate.~~

Sec. 98-261 Use regulations.

Uses permitted within a planned development (PD) district shall be determined by the city council upon adoption of such zoning designation, and shall be listed within the amending ordinance adopted by the city council establishing each PD district.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-262. Eligibility

- (a) A PD district is only permitted where the proposed design could not be largely or substantially achieved using conventional zone districts, standards, or allowances within this Zoning Ordinance.
- (b) The minimum acreage for a PD district request shall be three acres for non-residential development and ten acres for residential development.
 - (1) *Exception.* The Planning and Zoning Commission may allow an application for smaller project areas if such land is found to be suitable for a PD by virtue of its unique historical character, topography, unique use, or other natural features, or by virtue of its qualifying as an isolated problem area.

Sec. 98-263. Requirements and Development Standards

- (a) The PD district shall be subject to the standards of the base zoning district and all other sections of this Zoning Ordinance unless specifically excluded in the granting ordinance.
- (b) The following provisions shall be used as a guide for the design of PD developments to ensure that the physical and operational characteristics of proposed buildings and uses are compatible when considered in the context of the surrounding area:
 - (1) *Residential Density.* No proposed PD shall allow a residential density that exceeds 120% of the density permitted in the base zoning district.
 - (2) *Amenity Space.*
 - a. *High-Density Residential Uses.* For high-density residential developments, amenity space shall be provided and designated for the enjoyment of the occupants and/or general public.
 - b. *Mixed and Nonresidential Uses.* For mixed-use and nonresidential developments, amenity space shall be provided designated for the enjoyment of the general public or, in the case of industrial developments, the employees.
 - (3) *Access and Circulation.* The vehicular and pedestrian circulation system within each development shall safely and conveniently accommodate the movement of vehicles, bicycles, and pedestrians throughout the proposed development and to and from surrounding areas.
 - (4) *Streets.* All streets within the PD shall be designed for safe multi-modal use by vehicles, bicyclists, and pedestrians.
 - (5) *Parking.*
 - a. The minimum number of parking spaces required may be modified from what is required by [ARTICLE IV](#). OFF-STREET PARKING REGULATIONS, based on evidence provided by the applicant that other standards would be more reasonable because of the level of current or future employment, the level of current or future customer traffic, shared parking by uses that have peak parking demands that do not overlap, and other considerations.

- b. Such evidence shall be technical information gathered by a qualified planning, parking, or traffic consultant that verifies that the reduction will not impair the functioning of the developments served or have an adverse impact on traffic flow on or adjacent to the development.
Bicycle parking facilities shall be provided.
- (6) *Pedestrian Connectivity.* There shall be sidewalk connections to adjacent development and sidewalk and/or trail connections within the PD between buildings, amenities areas, parking areas, etc. These sidewalk and trail connections shall be designed so that walking and bicycling are safe and viable modes of transportation.
- (7) *Landscaping.* The landscaping requirements may be modified with respect to design, but not in regard to the total landscaping percentage, provision of live plant material, or the need for irrigation. Deviations to requirements must be based on evidence that other standards would be more reasonable or desirable due to the inherent design of the PD Development, the benefit that would accrue to the end-user, as well as other considerations.
- (c) In their review of a proposed PD development, the Planning and Zoning Commission and City Council may review other considerations that are found to be relevant to a particular project, including, but not necessarily limited to, road capacity, capacity and design of utility systems, achievement of an integrated development with respect to signage, lighting, landscaping, and building materials, and the extent to which noise reduction and visual screening are used, particularly in cases where nonresidential uses adjoin residential uses.
- (d) Specific development standards for each separate PD district shall be provided in writing by the applicant and set forth in the ordinance granting the PD district or as part of a master development plan attached to the ordinance. These requirements may include, but not be limited to, density, lot area, lot width, lot depth, yard depths and widths, building size, building height, building elevations, coverage, floor area ratio, parking, access, screening, landscaping, accessory buildings, signs, lighting, management associations, and other requirements as the City Council and Planning and Zoning Commission may deem appropriate.

DIVISION 8. DISTRICT DT DOWNTOWN

Sec. 98-264. Purpose and applicability.

- (a) *Purpose.* District DT is established to implement the recommendations of the City of Montgomery Downtown Design Master Plan. DT is intended to promote a mix of uses that encourage day-and night-time activity. Development within this District is characterized by street-oriented buildings with uses that encourage pedestrian activity. Comfortable pedestrian movement is supported by on-street and unobtrusive off-street parking, wide sidewalks, pedestrian amenities, and cohesive wayfinding to help promote a dynamic public realm.
- (b) *Applicability.*
 - (1) *Generally.* The standards of this Division apply to new development, redevelopment, and expansions of uses, sites, and buildings, as shown in Table 98-264-1, *DT District Regulations Applicability.*
 - (2) *Timing of Compliance.* No permanent Certificate of Occupancy shall be issued until all site improvements required in this Division and the remainder of this Ordinance are constructed in conformance with an approved permit or plan demonstrating compliance this Ordinance.

(c) **Street Designations.** For purposes of this Division and the building design requirements in Sec. 98-395., DT district, streets within the district have the following designations:

- (1) **Type A Streets:** State Highway 105 / Eva Street and State Highway 149 / Liberty Street.
- (2) **Type B Streets:** All other streets in the DT District except for Pond, Prairie, and Clepper Streets.
- (3) **Type C Streets:** Pond, Prairie, and Clepper Streets.

Table 98-264-1, DT District Regulations Applicability							
Type of Development	Sections of this Division						
	Sec. 98-265, Use Regulations	Sec. 98-266, Height and Area Regulations	Sec. 98-267, Sign Regulations	Sec. 98-268, Lighting Regulations	Sec. 98-269, Parking and Access Regulations	Sec. 98-270, Landscaping Regulations	Sec. 98-271, Building Design Regulations
X = Section Applies							
New residential, nonresidential, or mixed-use development or change in use from residential to nonresidential or mixed-use	X	X	X	X	X	X	X
Increase in GFA or impervious surface by 25 percent or more cumulatively over a 3-year period	X	X	X	X	X	X	X
Change in use requiring additional parking	X	X		X	X	X	
Increase in GFA, or impervious surface by less than 25 percent cumulatively over a 3-year period	X	X			X		
New installation or structural modification of an existing sign	X	X	X				
New installation or structural modification of existing site lighting	X	X		X			
New construction or modification to existing parking or access	X	X			X		
New or modification to existing landscaping	X	X				X	

Table 98-264-1, DT District Regulations Applicability

New construction or structural modification to an existing building	X	X					X
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Sec. 98-265. Use regulations

- (a) A building or premises in District DT shall be used only for the following purposes:
- (1) Uses permitted in a DT district in the table in section [98-88](#).
 - (2) Townhouses, excluding duplexes, subject to the following restrictions and performance standards:
 - a. Townhouses are permitted along Type B and C streets, as established in [Subsection 98--286\(c\), Street Designations](#).
 - b. A maximum of four consecutive townhouse units are permitted. End units shall have a minimum side setback of ten feet.
 - (3) Upper-story residential, subject to the following restrictions and performance standards:
 - a. An upper-story residential unit is permitted on the upper floors of a permitted nonresidential use.
 - b. The use shall adhere to all dimensional standards of the permitted nonresidential use.
 - c. A minimum of one off-street parking space shall be provided for the unit.
 - (4) Event venues subject to the following restrictions and performance standards:
 - a. Food and beverage preparation is limited to on-site consumption for guests.
 - b. ~~Events are limited to 250 people, not including employees.~~
 - c. The use shall comply with noise regulations set forth in [Chapter 34, Article III, Noise](#), of the Code of Ordinances.
 - d. ~~Events may be held on the property no more than 52 days out of the year.~~
 - e. Events shall not be conducted between 11:00 p.m. and 7:00 a.m.
 - f. The business is conducted so that it does not create parking or traffic congestion ~~or otherwise unreasonably interfere with the peace and enjoyment of surrounding properties.~~
 - (5) Micro-breweries subject to the following restrictions and performance standards:
 - a. The use shall meet all state and other separation requirements.
 - b. The maximum gross floor area shall not exceed 6,000 square feet.
 - c. The use shall be located a minimum of 300 feet, measured from property line to property line, from any property zoned R-1 or R-2 zoning district.
 - (6) Food products manufacturing, glass manufacturing and glass products manufacturing, hardware manufacturing, millwork and similar wood products manufacture, and other micro-manufacturing subject to the following restrictions and performance standards:
 - a. The maximum gross floor area shall not exceed 2,000 square feet.
 - b. No outdoor storage is permitted.
 - c. Where such uses are located within 50 feet of any residential use, no openings facing a residential use are permitted other than stationary windows, fire exits, or garage doors that are open only when necessary to permit immediate vehicle access and then are immediately closed.

- (7) Retail stores and other local business uses supplying everyday shopping and services, subject to the following restrictions and performance standards:
 - a. The use shall be conducted wholly within the enclosed building.
 - b. Required yards shall not be used for the storage of merchandise, vehicles or equipment.
 - c. No use, activity or process shall produce excessive light, smoke, dust, noise, vibrations or noxious odors that are perceptible without instruments by the average person at the property lines of a site.
 - d. Storing of containers and waste material will not be permitted in front and side yards.
 - e. All outdoor lighting shall be shielded or directed away so that direct light or glare does not impact adjacent residential land uses.
 - f. All storage and mechanical equipment shall be enclosed in a structure and completely screened from view.
- (c) The performance standards set out in subsections (a)(4) and (a)(6) of this section shall not apply to special events formally sanctioned by the city.

Sec. 98-266. Height and area regulations

- (a) *Regulations.* Table 98-266-1, *Height and Area Regulations*, establishes the minimum and maximum building height, lot area, lot width, and other dimensional requirements for the DT district based on the street type on which the property fronts. If a property has frontage on multiple streets then the fronting street shall be deemed the street from which the building is addressed.

Table 98-266-1, Height and Area Requirements					
Standards		Fronting Street			
		Type A - State Highway 105 / Eva Street	Type A - State Highway 149 / Liberty Street	Type B Streets	Type C Streets
A	Lot Area, Minimum Townhouse All Other Uses	Not Permitted NA	Not Permitted NA	1,500 square feet 2,000 square feet	1,500 square feet 2,000 square feet
B	Lot Width, Minimum Townhouse All Other Uses	Not Permitted 25 feet	Not Permitted 25 feet	15 feet 40 feet	15 feet 40 feet
C	Bldg Height, Minimum/Maximum	30 feet / 60 feet	30 feet / 45 feet	NA / 45 feet	NA / 45 feet
D, E	Front and Side Street Setback, Minimum/Maximum	5 feet / 10 feet	0 feet / 5 feet	5 feet / 10 feet	10 feet ¹ / NA
	Frontage Buildout, Minimum ²	80%	80%	60%	0%
F	Side Setback, Minimum	0 feet	0 feet	0 feet	5 feet ³
G	Rear Setback, Minimum	10 feet	10 feet	10 feet	10 feet

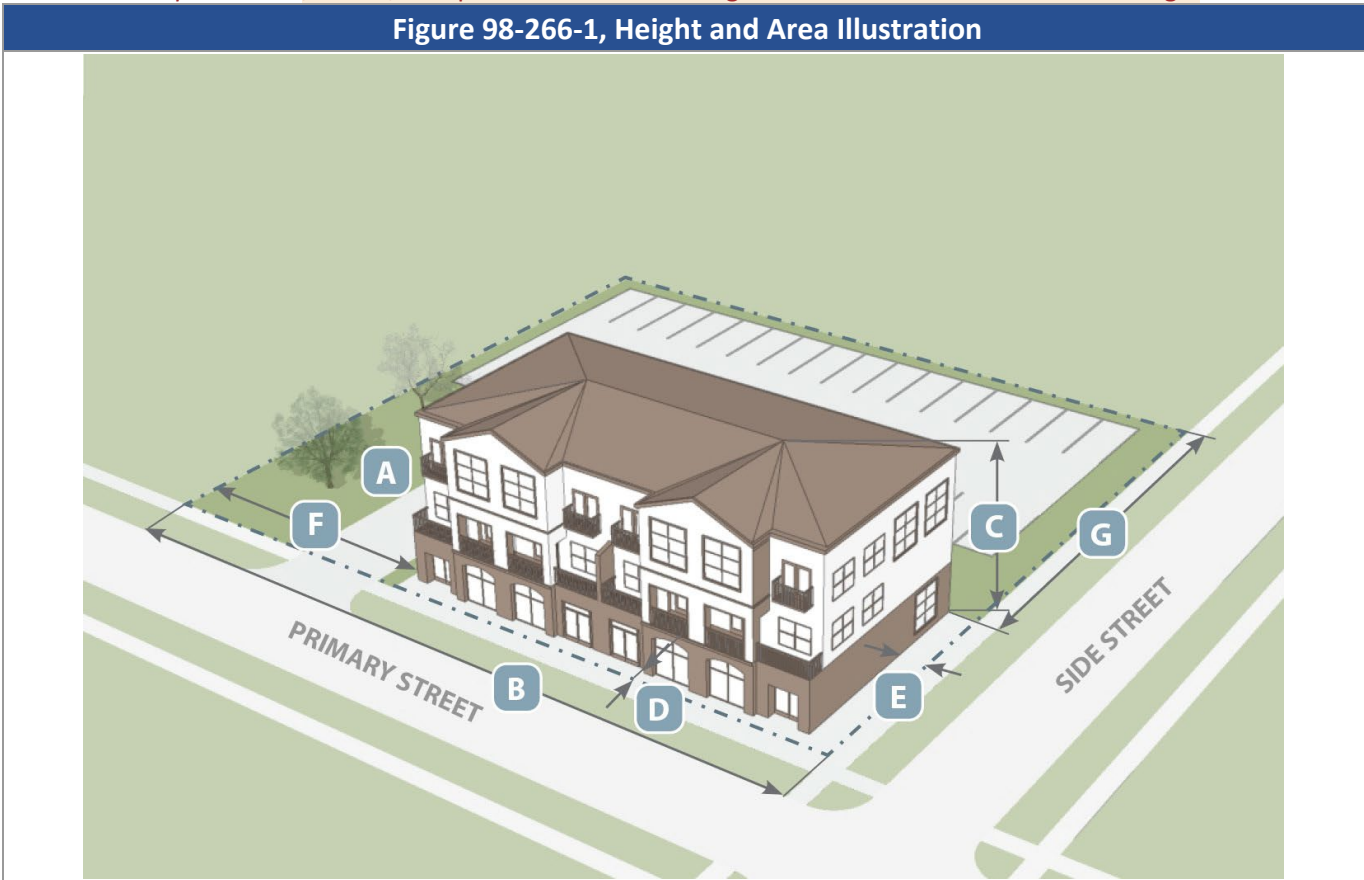
Table 98-266-1, Height and Area Requirements					
Standards		Fronting Street			
		Type A - State Highway 105 / Eva Street	Type A - State Highway 149 / Liberty Street	Type B Streets	Type C Streets
Lot Coverage, Maximum ⁴		95%	95%	85%	70%

Table Notes:

- A front loaded garage shall be set back a minimum of 20 feet from the front or side street property line.
- Refer to Figure 98-266-2, below, for a graphic depiction of this measurement.
- Townhouses shall have a 0' side setback.
- Refer to Figure 98-266-3, below, for a graphic depiction of this measurement.

(b) *Measurements.*

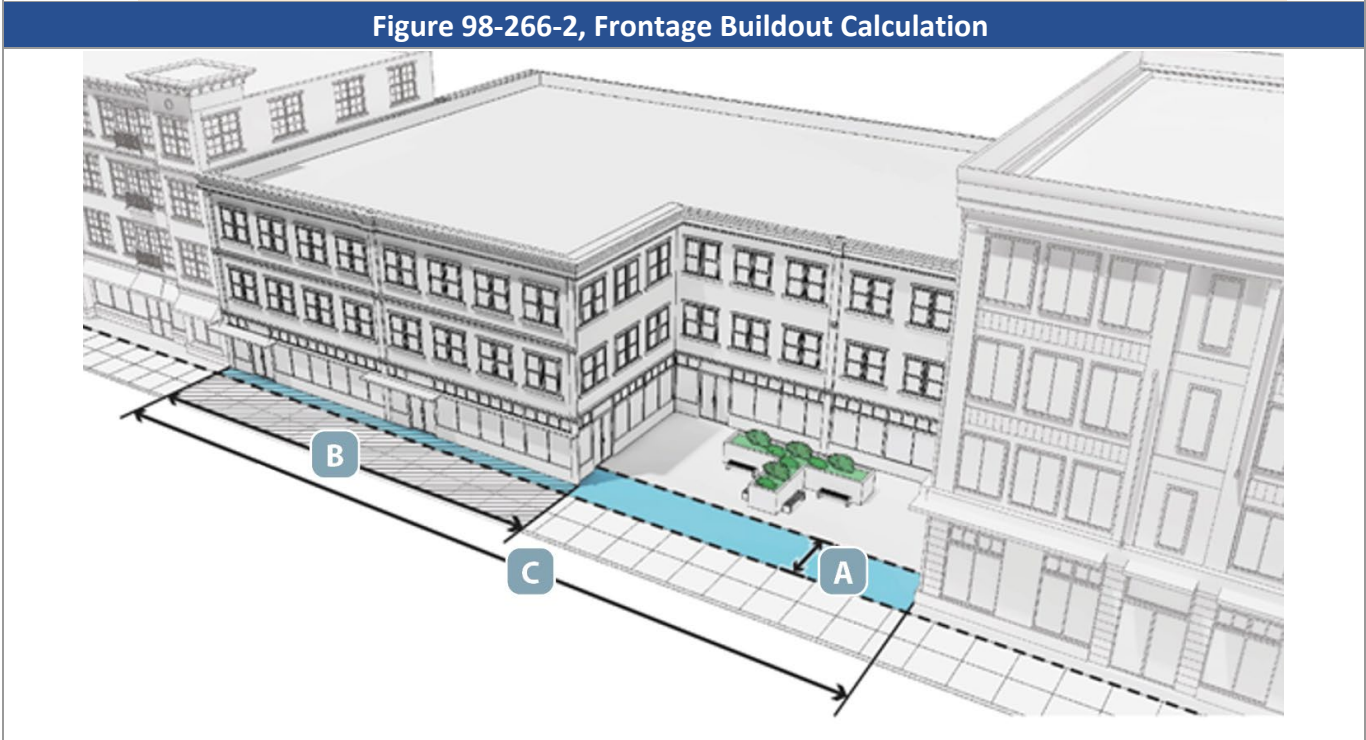
- (1) Figure 98-266-1, *Height and Area Illustration*, depicts the standards in Table 98-266-1, *Height and Area Requirements*, above, except for minimum frontage buildout and maximum lot coverage.



- (2) As depicted in Figure 98-266-2, *Frontage Buildout Calculation*, below, frontage buildout means the portion of the building ("B" in the graphic below) that is within the range of the minimum and maximum front or side street setbacks ("A" in the diagram below), represented as a percentage of the

width of the lot. For example, on a 60-foot wide lot, if 50 linear feet of the building lies within the range of the minimum and maximum setbacks, then the frontage buildout is 83% ($50 / 60 = .83$).

Figure 98-266-2, Frontage Buildout Calculation



- (3) As depicted in Figure 98-266-2, *Lot Coverage*, below, lot coverage is the portion of a lot occupied by buildings or structures that are roofed or otherwise not open to the sky ("B"), and any impervious cover such as patios, driveways, sidewalks, etc. ("C") divided by the total acreage ("A") For example, a 3,000 square-foot lot with a 1,000 square-foot building and 1,000 square feet of paved area has a 66% lot coverage ($(1,000 + 1,000) / 3,000$).

Figure 98-266-3, Lot Coverage



Sec. 98-267. Sign regulations

- (a) *General.* Signs in the DT district shall comply with Chapter 66, Signs, of the Code of Ordinances except for where the standards of this Section differ from or add to the requirements of Chapter 66.
- (b) *Prohibited Signs.* The following sign types, as depicted in Figure 98-267-1, Prohibited Sign Types, below, are prohibited in the DT district.
 - (1) Roof signs;
 - (2) Cabinet signs;
 - (3) Pole or pylon signs;
 - (4) Electronic message boards; and
 - (5) Any other sign type not listed in subsection (c), Allowed Permanent Signs, below.

Figure 98-267-1, Prohibited Sign Types

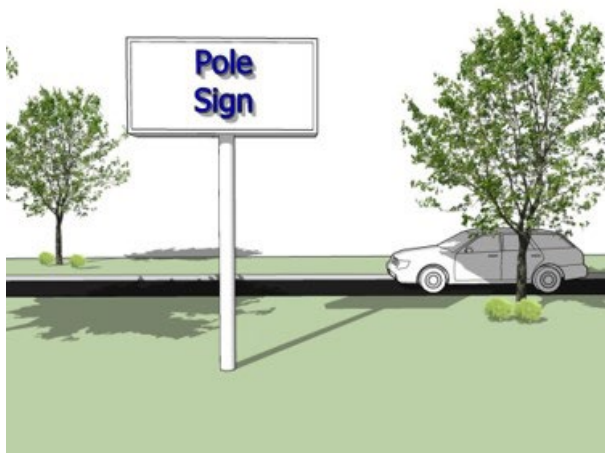
Roof Signs



Cabinet Signs



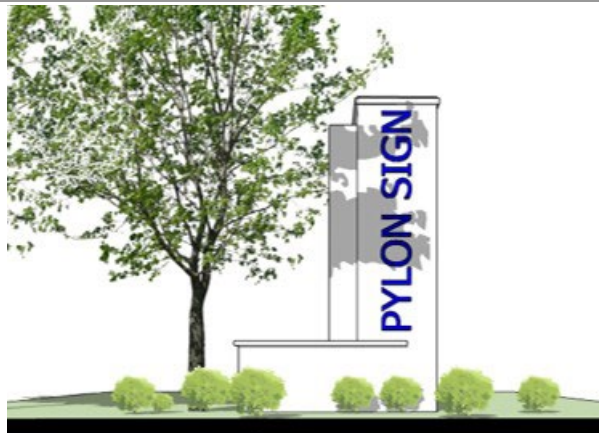
Pole Signs



Electronic Message Boards



Pylon Sign



(c) *Allowed Permanent Signs.* Table 98-267-2, *Allowed Permanent Signs*, sets out the sign types allowed in the DT district and the standards that apply to each sign type.

Table 98-267-2 Allowed Attached Permanent Signs	
	
Awning Signs	
Maximum Number Allowed	1 per building front or per storefront
Maximum Area	5 square feet per linear foot of awning or canopy length
Minimum / Maximum Distance from Building Wall to Farthest Part of Sign (Projection)	4 feet / No more than half the distance from the building facade into the public right-of-way
Maximum Height	8 feet above grade
Illumination	External
Other Standards	N/A
Canopy Signs	
	
Maximum Number Allowed	1 per building front or per storefront

Table 98-267-2 Allowed Attached Permanent Signs

Maximum Area	50% of canopy width
Maximum Height	2 feet above canopy
Illumination	External or Internal
Other Standards	N/A

Hanging Signs



Maximum Number Allowed	1 per storefront
Maximum Area	6 square feet
Maximum Height	8 feet above grade
Illumination	Indirect illumination only
Other Standards	1. Shall not extend beyond the marquee, canopy, or awning under which it hangs.

Marquee Signs



Maximum Number Allowed	1 per street facing façade
Maximum Area	50 square feet per side; 100 square feet total
Maximum Height	4 feet from lowest point of marquee to highest point, excluding any ornamentation supported directly by the marquee
Minimum Clearance	8 feet above grade
Illumination	Down lighting only; only the changeable copy area may be internally illuminated
Other Signs	If used, then a wall sign is prohibited on same facade

Table 98-267-2 Allowed Attached Permanent Signs

Other Standards	<ol style="list-style-type: none"> May not project more than 6 feet from the building; may require an encroachment permit. Sign may be on up to three sides of a marquee.
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Projecting Signs



Number Allowed	1 per building or 1 per 20 ft. of building frontage if multiple storefronts.
Maximum Area	1 square feet for each linear foot of building frontage
Maximum Distance from Building Wall to Farthest Part of Sign (Projection)	No more than half the distance from the building facade into the public right-of-way
Minimum Clearance	8 feet above sidewalk or walkway
Illumination	Internal or External (down lighting only)
Other Signs	If used, then a wall sign is prohibited on same facade

Wall Signs



Number Allowed	1 per building facade or tenant (multi-tenant bldg.); Maximum 2 per building
Maximum Area	Total sign area shall not exceed 1.5 square feet for each foot of linear frontage; a 2nd wall sign shall not exceed 0.5 square feet per linear frontage.
Maximum Height	The eaveline or the bottom of the second story window sill, whichever is lower.
Illumination	Indirect lighting only
Other Standards	<ol style="list-style-type: none"> No wall sign shall project more than 18 inches from the building wall. No wall sign or its supporting structure shall cover any window or part of a window.

- (d) *Cabinet Signs and Channel Letters*. As established in Figure 98-267-1, *Prohibited Sign Types*, cabinet signs are prohibited. The channel letter styles depicted in Figure 98-267-2, *Allowed Channel Letter Styles*, are permitted, in addition to other styles as acceptable to the Director.

Figure 98-267-2, Allowed Channel Letter Styles



- (e) *Permitted Temporary Signs*.

- (1) Stenciled window signs subject to the following standards:
 - a. A maximum of one window sign is permitted per window;
 - b. The sign area shall be a maximum of 15 percent of the window area or non square feet, whichever is less; and
 - c. Illumination may be indirect or internal and the light shall be turned off outside of business hours.
- (2) Manual changeable copy message boards subject to the following standards:
 - a. Adding changeable copy elements to an existing sign is allowed only if the modified sign will conform with all applicable standards in this Section and with all other applicable standards related to the location, height, size and other characteristics of the sign as established in [Chapter 66, Signs](#);
 - b. Reader boards are only permitted on marquee signs;
 - c. Manual changeable copy message centers, including their frames, shall make up not more than 30 percent of the sign area with all other areas of the sign allowing only for permanently affixed letters or symbols; and
 - d. Lettering of manual changeable copy signs shall be of a single style and shall be of uniform color and size.
- (3) A-frame signs provided they are removed after every business day.

Sec. 98-268. Lighting regulations

- (a) *Accent Lighting*. As depicted in Figure 98-268-1, *Permitted Accent Lighting*, below, all wall mounted accent lighting within the DT district shall be shielded or directed downward to prevent light from shining beyond the property on which the lighting fixtures are located. Other designs are permitted as approved by the Director.

Figure 98-268-1, Permitted Accent Lighting

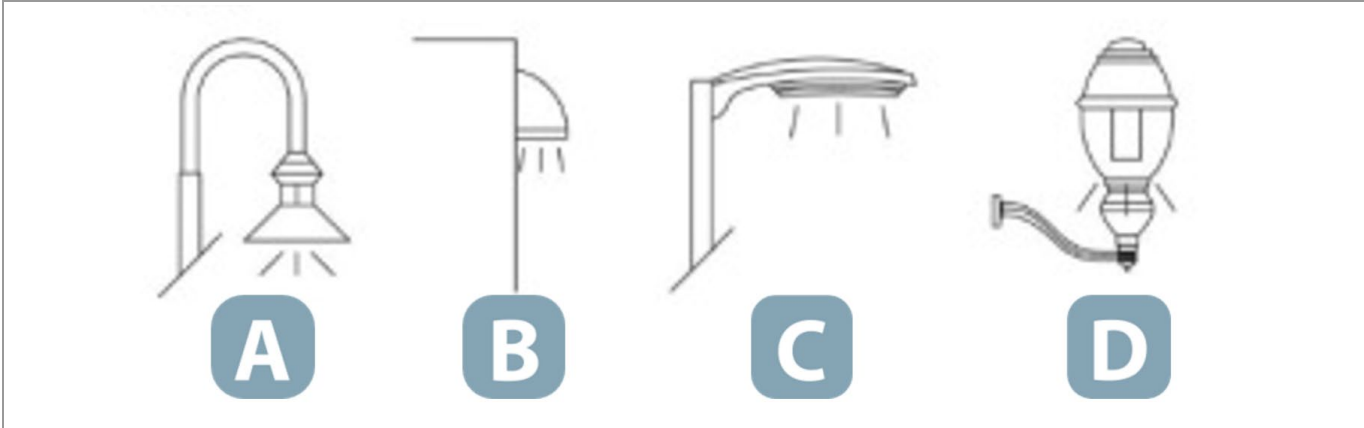


Figure Notes:
 A = Hidden Bulb | B = Shining Down and Flat Lens (Wall) | C = Shining Down and Flat Lens (Pole) | D = Hidden Bulb Shining Down

(b) *Site Lighting.* As depicted in Figure 98-268-2, *Site Lighting*, below, to minimize glare and diffusion of light onto adjacent properties, all pole-mounted lights within the DT district shall either use shielded, cut-off fixtures that project downward at under a 90-degree angle from the light source, or that are unshielded and have a maximum footcandle strength of 0.5.

Figure 98-268-2, Site Lighting

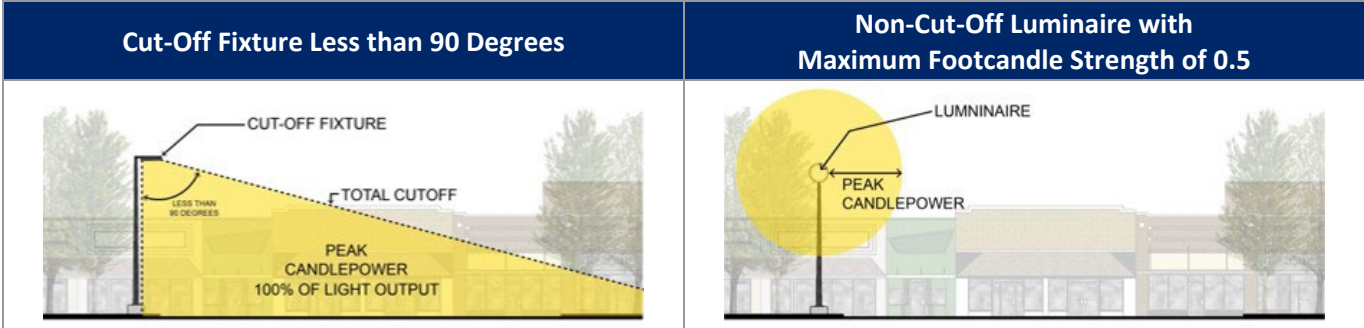


Figure Notes:
 A = Hidden Bulb | B = Shining Down and Flat Lens (Wall) | C = Shining Down and Flat Lens (Pole) | D = Hidden Bulb Shining Down

Sec. 98-269. Parking and access regulations

- (a) *General.* Parking and access in the DT district shall comply with [ARTICLE IV, Off-Street Parking Regulations](#), except for where the standards of this Section differ from or add to the requirements of Article IV.
- (b) *Parking Minimums.* The minimum off-street surface parking requirement for buildings in the DT district fronting onto Type A streets shall be as required in Table 98-269-1, *Minimum Parking Ratios for the DT District*. There are no minimum off-street surface parking requirements elsewhere in the DT District.

Table 98-269-1, Minimum Parking Ratios for the DT District ¹	
Land Use	Minimum Parking Spaces
Alcoholic beverage sales on premises	1 per 215 SF GFA ²
Altering and repairing of wearing apparel	1 per 215 SF GFA

Table 98-269-1, Minimum Parking Ratios for the DT District¹

Land Use	Minimum Parking Spaces
Antique store (completely enclosed)	1 per 215 SF GFA
Apothecary, limited to the sale of pharmaceutical and medical supplies	1 per 215 SF GFA
Apparel and accessory store	1 per 215 SF GFA
Appliance repair (completely enclosed)	1 per 400 SF GFA
Art gallery and/or museum (commercial retail sale of objects d'art only)	1 per 350 SF GFA
Bakery (retail)	1 per 215 SF GFA
Barber shop	2 per work station
Beauty salon	2 per work station
Bed and breakfast	1 per dwelling unit plus 1 per guest room
Dairy products sales (retail)	1 per 215 SF GFA
Delicatessen	1 per 6 customer seats plus one per two employees on the maximum working shift
Department store	1 per 215 SF GFA
Drugstore	1 per 215 SF GFA
Dry cleaning pickup and pressing shops	1 per 300 SF customer service area, plus one space per 500 sq ft remaining GFA
Dry goods store	1 per 215 SF GFA
Electric repair (appliances) (completely enclosed)	1 per 400 SF GFA
Event venue	1 per 250 SF GFA
Fish market (retail)	1 per 215 SF GFA
Fix-it shop (completely enclosed)	1 per 215 SF GFA
Floral shop (completely enclosed)	1 per 215 SF GFA
Food products manufacture and processing (not rendering)	1 per 350 SF office area plus 1 per 215 SF sales area plus 1 per 1,000 SF manufacturing area
Food store	1 per 215 SF GFA
Food to go (retail, no curbside service)	1 per six customer seats plus one per two employees on the maximum working shift
Fruit and vegetable stand or store	1 per 215 SF GFA
Furniture repair and upholstering (completely enclosed)	1 per 400 SF GFA
Furniture store, retail (completely enclosed) (no repair)	1 per 400 SF GFA
Garden specialty store	1 per 215 SF GFA
Gift shop (completely enclosed)	1 per 215 SF GFA
Glass (retail sales) (service incidental to sales) (completely enclosed)	1 per 215 SF GFA
Glass manufacturing and glass products manufacturing	1 per 350 SF office area plus 1 per 215 SF sales area plus 1 per 1,000 SF manufacturing area

Table 98-269-1, Minimum Parking Ratios for the DT District¹

Land Use	Minimum Parking Spaces
Grocery store	1 per 215 SF GFA
Hardware manufacture	1 per 350 SF office area plus 1 per 215 SF sales area plus 1 per 1,000 SF manufacturing area
Hardware store	1 per 215 SF GFA
Hobby supply store	1 per 215 SF GFA
Hotel	1 per guest room plus one per employee on largest shift
Ice cream and ice milk (retail)	1 per 215 SF GFA
Ice cream store	1 per 215 SF GFA
Interior decorating studio	1 per 350 SF GFA
Jewelry store	1 per 215 SF GFA
Laundry and dry cleaning (self service)	1 per 300 SF customer service area, plus one space per 500 sq ft remaining GFA
Library (nongovernmental)	1 per 350 SF GFA
Loan office	1 per 350 SF GFA
Locksmith	1 per 400 SF GFA
Micro-manufacturing	1 per 350 SF office area plus 1 per 215 SF sales area plus 1 per 1,000 SF manufacturing area
Mobile food unit	None
Mobile food court	2 per mobile food unit soace
Music store	1 per 215 SF GFA
Nail salon	2 per work station
Night club/dance hall	1 per 100 sq ft GFA
Office equipment and supplies (retail)	1 per 215 SF GFA
Offices (professional)	1 per 350 SF GFA
Optical goods (retail)	1 per 215 SF GFA
Optician	1 per 350 SF GFA
Paint and wallpaper store	1 per 215 SF GFA
Parks, playgrounds, community buildings and other public recreational facilities owned and/or operated by the city or other public agency	None
Passenger depot (railroad or bus)	1 per 4 seats in waiting area
Pawnshop (completely enclosed)	1 per 215 SF GFA
Pet shop (completely enclosed)	1 per 215 SF GFA
Picture framing	1 per 215 SF GFA
Plumbing fixture sales(completely enclosed) (retail)	1 per 215 SF GFA
Public buildings, including libraries, museums, police stations and fire stations	1 per 350 SF GFA

Table 98-269-1, Minimum Parking Ratios for the DT District¹

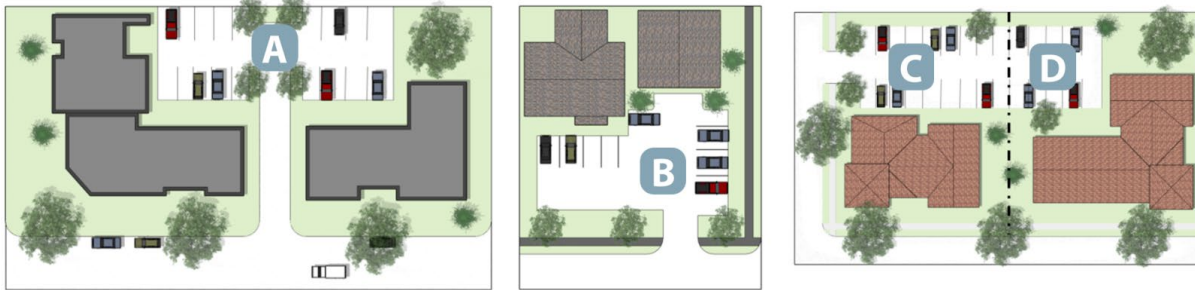
Land Use	Minimum Parking Spaces
Radio station or studio, without transmitter tower	1 per 350 SF GFA
Reading room	1 per 350 SF GFA
Reducing salon	1 per 215 SF GFA
Restaurant	1 per six customer seats plus one per two employees on the maximum working shift
Rug and/or carpet sales	1 per 215 SF GFA
Shoe repair shop	1 per 215 SF GFA
Shoe sales (retail)	1 per 215 SF GFA
Small animal clinic or kennel (completely enclosed)	1 per 350 SF GFA
Sporting goods store	1 per 215 SF GFA
Stamp, coin sales (retail)	1 per 215 SF GFA
Stationery sales	1 per 215 SF GFA
Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, painting, etc.	1 per 350 SF GFA
Surgical or dental supplies store	1 per 215 SF GFA
Tanning salon	2 per tanning bed
Tavern	1 per six customer seats plus one per two employees on the maximum working shift
Television station or studio without transmitter tower	1 per 350 SF GFA
Theater (indoor)	1 per 4 seats
Toy store	1 per 215 SF GFA
Variety store	1 per 215 SF GFA
Watch repair	1 per 215 SF GFA

Table Note:

1. The requirements of this table only apply to buildings in the DT district fronting onto Type A atreets.
2. SF GFA = Square feet of gross floor area.

- (b) **Parking Maximum.** The maximum amount of off-street surface parking for a use in the DT District, regardless of the street type on which the property fronts, shall not exceed 125 percent of the minimum required in Table 98-269-1. For example, if a use on a property fronting onto a Type A street requires a minimum of 10 off-street surface parking spaces, then the maximum for that use is 13 (10 x 1.25 = 12.5). The same use on a property fronting onto a Type B or Type C street would also have a maximum number of 13 parking spaces.
- (c) **Parking Location.** Off-street surface parking shall be located on the subject property in relation to the principal building in accordance with Figure 98-269-1, *Vehicle Surface Parking Location*.

Figure 98-269-1, Vehicle Surface Parking Location¹



A = Rear Parking | B = Front Parking | C = Street Side Parking | D = Interior Side Parking

Parking Locations	Fronting Street			
	Type A - State Highway 105 / Eva Street	Type A - State Highway 149 / Liberty Street	Type B Streets	Type C Streets
Rear Parking	P	P	P	P
Front Parking	--	--	--	P
Street Side Parking ²	--	P	P	P
Interior Side Parking ³	P	P	P	P

Table Notes:

P = Parking Location Permitted | "--" = Parking Location Prohibited.

1. Illustrations are conceptual only and are intended to show parking area locations in relation to buildings. They are not intended to show the amount of parking required for any particular land use or any other required features or characteristics.

2. Street side parking shall not be adjacent to a Type A street.

3. Interior side parking that does not have access from a public right-of-way may require the owner to obtain a cross access easement together with the adjacent property.

(d) Shared and Cross Access and Driveways.

(1) Shared and cross access, as depicted in Figure 98-269-2, Shared and Cross Access, shall be provided for nonresidential and mixed-use developments according to the following:

a Shared Access.

- i. The applicant shall preserve access that is shared by abutting properties, whether under single or separate ownership, using a shared access easement in a form that is acceptable to the City Attorney and recorded in the office of the County Clerk, at the applicant's expense. The obligation to provide and maintain shared access shall run with the land.
- ii. If there is an existing shared access for which there is no recorded legal documentation, the shared access shall continue, and the applicant shall execute and record legal documentation.

b Cross Access.

- i. Cross access between off-street surface parking areas shall be provided, where feasible, based on lot shape, size, and configuration. The Director may deem improved alleys (either already improved or improved by the applicant) as an acceptable way to provide cross access or, if an improved or improvable alley is not available, may require a cross access

easement at the rear of the property, or may require the subject property to connect to an existing adjoining cross access easement.

- ii. Where connections to abutting parcels are possible with a cross access easement but do not exist at the time of development, the parcel proposed for development shall stub-out drive aisles and sidewalks to allow for two-way vehicular and pedestrian connections on the abutting parcel.
- iii. The applicant shall record a cross access easement in a form acceptable to the City Attorney to allow for future connection of the stub-out(s) to the adjoining property.

(2) *Driveways.*

a *Driveway Separation.*

- i. Driveways shall be spaced a minimum of 100 feet apart, measured from centerline to centerline, on State Highway 105 / Eva Street, or the minimum distance required by the Texas Department of Transportation, whichever is greater.
- ii. A maximum of one driveway per block face is permitted on State Highway 149 / Liberty Street. All other vehicular access shall come from a street parallel to State Highway 149 / Liberty Street.
- iii. On Type B and C streets in the DT District, driveways shall be spaced a minimum of 50 feet apart, measured from centerline to centerline.




b *Driveway Clearance from Intersections.*

- i. Driveways shall be spaced a minimum of 150 feet from a street intersection, measured from centerline to centerline, on State Highway 105 / Eva Street, or the minimum distance required by the Texas Department of Transportation, whichever is greater.
- ii. Driveways shall be spaced a minimum of 120 feet from a street intersection, measured from centerline to centerline, on State Highway 149 / Liberty Street, or the minimum distance required by the Texas Department of Transportation, whichever is greater.
- iii. On Type B and C streets in the DT District, driveways shall be spaced a minimum of 50 feet from a street intersection, measured from centerline to centerline.

(e) *Structured Parking.*

- (1) *Structured Parking Types.* Stand-alone, activated, and integrated parking structures are each permitted in the DT District as depicted and described in Table 98-269-2, *Parking Structure Type Descriptions and Standards.*

Table 98-269-2, Parking Structure Type Descriptions and Standards

Description	Standards	Image
<p>Stand-alone parking structures are freestanding structures located in the center of a larger block.</p>	<p>Stand-alone structures shall be separated from adjacent buildings by a minimum of 20 feet to provide sufficient light and privacy for adjacent structures. This separation may accommodate an alley and/or rear yards. Stand-alone parking structures are not permitted on properties with frontage on Type A streets.</p>	
<p>Activated structures are parking structures with retail uses at the base that are oriented solely toward the street.</p>	<p>Liner buildings associated with activated structures may be directly attached or detached by a minimal fire separation distance.</p>	
<p>Integrated structures are parking structures located within an occupied building.</p>	<p>Integrated structures may be fully or partially integrated with the surrounding building.</p>	

- (2) *General Design Standards.* Parking structures shall be designed as follows:
- a. *Rooftop Parking.* Rooftop open-air parking shall be screened with a parapet of at least four feet in height.
 - b. *Safety Mirrors.* Pedestrian safety devices such as convex mirrors or other warning devices are required where it would be a significant risk to public health or safety without the installation of those devices.
 - c. *Gates and Booths.* Any vehicle exit barrier, including but not limited to a gate or payment booth, shall be located at least 20 feet inside the exterior wall of the parking structure to provide stacking space for exiting vehicles.
 - d. *Lighting.* Parking structures shall contain lighting sufficient for security purposes.
 - e. *Exterior Design.* Facades on the ground floor of stand-alone parking structures shall meet one of the following standards:
 - i. Be constructed of materials of similar quality and shall be compatible in appearance with adjacent buildings; or
 - ii. Be articulated using three or more of the following architectural features:

- iii. Windows or window-shaped openings with decorative mesh or similar features as approved by the Director of Planning;
- iv. Masonry columns;
- v. Decorative wall insets or projections;
- vi. Awnings;
- vii. Changes in color or texture of materials;
- viii. Public art;
- ix. Integrated landscape planters or trellises; or
- x. Other similar features approved by the Director.

(f) *Parking Reductions and Credits.*

- (1) *Generally.* This Subsection sets out several ways to reduce or receive credit for the number of required off-street surface parking spaces that must be provided according to Table 98-269-1, *Minimum Parking Ratios for the DT District.*
- (2) *Administrative Credits and Reductions.* The Director may approve the following parking credit and reduction options for a property. The administrative credit and reduction options are cumulative if more than one is used on a property.
 - a. *Ride Sharing.* The number of required parking spaces may be reduced by five percent for parking areas of more than 50 spaces if the site provides a dedicated ride-share loading area.
 - b. *Change in Use Without Sufficient Parking.* A permitted use may be converted to another permitted use without full compliance with the required number of parking spaces if the Director determines:
 - i. The maximum amount of parking spaces possible is already being provided without removing or partially removing a structure; and
 - ii. The amount of parking available is at least 80 percent of the parking required for the new use in Table 98-269-1, *Minimum Parking Ratios for the DT District.*
 - c. *Off-Site Parking Credit.* Off-site parking spaces may provide credit to satisfy the minimum parking space requirements in any residential or mixed-use zoning district subject to the following:
 - i. The parking lot complies with all applicable requirements of this Ordinance;
 - ii. The parking lot is wholly within the DT District; and
 - iii. The off-site parking lot is within 300 feet of the subject property, measured from the nearest property lines.
 - d. *Shared Parking.*
 - i. *Reduction.* Where a shared parking facility serving more than one use is proposed, the total number of required parking spaces may be reduced up to 25 percent if:
 - (A) The peak hours of use do not overlap or coincide to the degree that peak demand for parking spaces from all uses will be greater than the total supply of spaces; or
 - (B) The proposed shared parking will adequately serve each use.
 - ii. *Analysis.* In order to apply a parking reduction as a result of shared parking, the applicant shall provide a parking analysis prepared by a professional engineer.
 - iii. *Agreement for Shared Parking.* Sharing of parking shall require a written agreement among all owners of record. An attested copy of the agreement between the owners of record

shall be submitted to the Director for review and final action. The applicant shall record the agreement prior to the issuance of a Building Permit or a Certificate of Occupancy, if a Building Permit is not required, for any use to be served by the shared parking. A shared parking agreement may be terminated if all required off-street parking spaces will be provided in accordance with the requirements of this Ordinance.

(3) **Legislative Credits and Reductions.**

- a. **Planning and Zoning Commission.** The Planning and Zoning Commission may approve a reduction in the number of required parking spaces, without shared parking involved, if the applicant demonstrates that a reduction is appropriate based on the applicant providing a parking study with specific parking demand forecasts for the proposed use and/or on the provision of alternative parking or transportation demand management programs that tend to reduce the demand for parking spaces, provided that:
 - i. The study is prepared by a professional transportation planner or traffic engineer;
 - ii. The forecasts are based upon a peak parking analysis of at least five comparable uses; and
 - iii. The comparability of the uses is documented in detail, including their location, gross floor area, street access, use types and restrictions, hours of operation, peak parking demand periods, and all other factors that could affect parking demand.
- b. **Transportation Professional.** The Director may retain a qualified transportation planner or traffic engineer, at the applicant's expense, to review the parking demand forecast and provide recommendations to the Planning and Zoning Commission.
- c. **Reserve.** The balance of the land necessary to meet the parking requirements shall be held in reserve as an undeveloped area, to meet any future needs generated by an expansion of the business, a change in land use, or underestimated parking demand.

Sec. 98-270. Landscaping Regulations

(a) **Street Trees.**

- (1) For properties with frontage on a Type A street, one street tree in the public right-of-way shall be required per 40 feet of street frontage and shall be spaced on-center. On corner lots, both street frontages count toward the required number of street trees.
- (2) On other streets within the DT Districts, street trees within the public right-of-way are not required.
- (3) Street trees shall be provided within a sidewalk cutout. Placement and design of sidewalk cutouts shall be in accordance with the Americans with Disabilities Act (ADA).
- (4) All street trees shall be shade trees with single-stemmed trunks, branched no lower than six feet above the ground, except that ornamental trees may be used if large trees would conflict with existing overhead power lines. Ornamental trees shall not produce undue amounts of tree litter on the sidewalk and street.
- (5) Street trees shall consist of species with non-invasive roots.
- (6) Trees, if planted, should match the species of adjacent Street Trees on the Public Frontage

(b) **Landscaping.**

- (1) ~~All areas of a site not covered by buildings, structures, parking areas, service areas, walkways, plazas, and other impervious-surfaced functional areas shall be landscaped with naturalized, drought tolerant plants using low-maintenance landscaping practices and techniques.~~ Any site area not covered by buildings, structures, parking areas, service areas, walkways, plazas, and other impervious-surfaced

functional areas shall be landscaped with naturalized, drought-tolerant plants using low-maintenance landscaping practices and techniques.

- (2) Where a side setback occurs, it shall be landscaped as a buffer to the adjoining property, a continuation of landscaping between properties, usable open space for residents or employees within the property, or a landscaped passageway from the property to the street.
- (c) **Sidewalks.** Sidewalks are required along both sides of all streets in the DT District and shall be a minimum of eight feet in width along State Highway 105 / Eva Street and a minimum of six feet in width along all other streets. Sidewalk installation by the property owner and acceptance by the City shall be required prior to the issuance of a Certificate of Occupancy. New sidewalks shall connect to existing sidewalks
- (d) **Amenity Space.**
 - (1) **Generally.** In order to ensure that a variety of functional, well-designed amenities are distributed throughout the DT District, developments to which this Section applies shall have an amenity space component on-site as defined below in Table 98-270-1, *Amenity Space Standards*.
 - (2) **Types.** Table 98-270-1, shows the amenity space types allowed in a DT District and their associated standards.
 - (3) **Access.** Amenity spaces include areas intended for public access and use or for the customers, employees, residents of a development. These areas range in size and development and serve to complement and connect surrounding land uses. Public amenity space may be publicly- or privately-owned and maintained but shall be at minimum accessible to the public during hours typical for a public park in the City.
- (e) **Amount of Amenity Space Required.** All development to which this Section applies shall provide four square feet of amenity space for every 100 square feet of gross floor area of a nonresidential building. In a mixed use development, upper-story residential floor area shall not count toward calculating the amenity space requirement.

Table 98-270-1, Amenity Space Standards



Amenity Space Type	Description
<p>Plaza</p> 	<p>Plazas are open areas that are enclosed or partially enclosed on two or three sides by buildings, with seating that is adjacent to, or part of, a building. Plazas function as gathering places and may incorporate a variety of non-permanent activities such as vendors and display stands.</p>
<p>Square</p>	

Table 98-270-1, Amenity Space Standards	
Amenity Space Type	Description
 <p>Courtyard</p>	<p>Squares are areas enclosed or partially enclosed on all sides by buildings, improved with a combination of landscaped area and hardscape.</p>
 <p>Community Garden</p>	<p>Courtyards are unroofed open areas, that are completely or mostly enclosed within the walls of a building.</p>
 <p>Town Green</p>	<p>Community gardens are sites operated and maintained by a property owners association or other private entity or the public to cultivate herbs, fruits, vegetables, flowers, or other ornamental foliage for personal use, consumption, donation or off-site sale of items grown on the site.</p>
 <p>Paseo</p>	<p>Town greens are sites that are much like plazas but consist mostly of green space, rather than hardscape. They are appropriate for public activities such as festivals, concerts, informal play, and other similar events.</p>

Table 98-270-1, Amenity Space Standards

Amenity Space Type	Description
	<p>Paseos are linear shaded amenity spaces that occur between buildings and allow for social and commercial activity to spill into the public realm.</p>

Sec. 98-271. Building design regulations

All developments within the DT Downtown district shall comply with the building design standards of [ARTICLE VIII. BUILDING DESIGN.](#)

Secs. 98-272—98-285. Reserved.

ARTICLE VI. HISTORIC PRESERVATION³

³State Law reference—Antiquities Code of Texas, V.T.C.A., Natural Resources Code ch. 191 .

Sec. 98-343 Purpose.

NOTE TO REVIEWERS: The stricken paragraphs in this Section come from the City's adopted HP Guidelines.

The city council hereby declares that as a matter of public policy, the protection, enhancement, and perpetuation of landmarks or districts of historical and cultural importance and significance is necessary to promote the economic, cultural, educational, and general welfare of the public. It is recognized that the city represents the unique confluence of time and place that shaped the identity of generations of citizens, collectively and individually, and produced significant historic, architectural, and cultural resources that constitute their heritage. This article is intended to:

- (1) Protect and enhance the landmarks and districts which represent distinctive elements of the city's historic, architectural, and cultural heritage;
- (2) Foster civic pride in the accomplishments of the past;
- (3) Protect and enhance the city's attractiveness to visitors and the support and stimulus to the economy thereby provided;
- (4) Ensure the harmonious, orderly, and efficient growth and development of the city;
- (5) Promote economic prosperity and welfare of the community by encouraging the most appropriate use of such property within the city; and
- (6) Encourage stabilization, preservation, restoration, and improvements of such properties and their values.

(Ord. No. 2014-03 , § 1, 5-20-2014)

~~GENERAL. The City of Montgomery wishes to preserve the architectural style, form, scale, materials, colors, details and treatments of buildings constructed in the period between 1830 and 1941. Consistent with the zoning ordinance and other codes and ordinances, the interior of period buildings may be altered at the discretion of the owner but any repair, alteration, addition, replacement, removal or reconstruction of all or a part of the exterior must be done in accordance with the requirements contained herein and upon receipt of approval from the Planning and Zoning (P & Z) Commission. Any building to be moved into the district, or onto a property designated as a historic landmark, must have been constructed during the period 1830 to 1941 and/or substantially reflect a style of architecture of that period and be consistent with the Design Guidelines for the City of Montgomery, which are contained herein. New buildings that are to be constructed in the historic district, or on a property designated as a historic landmark, must also reflect a style of architecture from that period and must be constructed in accordance with the guidelines. Buildings moved into the district or newly constructed in the district, or on a property designated as a historic landmark, must submit plans and receive approval from the P & Z Commission prior to the commencement of movement or construction.~~ (From Historic Preservation Guidelines)

~~Excellent photographic examples of buildings and structures to be constructed in the historic district, or on a property designated as a historic landmark, are attached to these guidelines as Appendix "A", and are incorporated herein by reference. These photographs include appropriate guidelines and standards for roofs and porches, front facade openings, home details, chimneys, dormers, fences, accessory buildings, garages, and other features, as well as commercial structures. The examples reflect the architectural style, form, scale, materials, colors, details and treatments of buildings and other structures constructed in the period between 1830 and 1941, and in which the City is seeking to preserve and maintain, in its effort to maintain economic viability, protect property values, and to preserve the integrity and character of the historic district, and properties designated as historic landmarks, in a manner of quality indicative of the City of Montgomery.~~

Sec. 98-344 Designation of historic landmarks.

- (a) These provisions pertaining to the designation of historic landmarks both inside and outside of the historic preservation district constitutes a part of the comprehensive zoning plan of the city.
- (b) The city council may, from time to time, following recommendations either for or against such designation by the planning and zoning commission, designate certain sites and/or structures in the city as historic landmarks, and define, amend, or eliminate the boundaries of designation. Such sites shall bear the words "historic landmark" in their zoning designation. Such designation and the requirement thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the historic landmark by the letters "HL" as a suffix to the use designated.
- (c) Property owners of proposed historic landmarks shall be notified by certified mail no less than 15 calendar days prior to the planning and zoning commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic landmark.
- (d) The proposed historic landmark shall be submitted to the planning and zoning commission at the earliest available meeting and no later than 30 days from the date of the designation request. The commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within 45 days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
- (e) The city council shall schedule a hearing of the planning and zoning commission's recommendation to be held within 45 days of receipt of the recommendation of the commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.
- (f) Upon designation of an historic landmark, the city council shall cause the designated sites/structures to be recorded on the official zoning map.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-345 Designation of historic preservation districts.

- (a) These provisions pertaining to the designation of historic preservation districts constitute a part of the comprehensive zoning plan of the city.
- (b) The city council may, from time to time, following recommendations either for or against such designation by the planning and zoning commission, designate certain areas in the city as historic preservation districts, and define, amend, or eliminate the boundaries of designation. Such districts shall bear the words "Historic

Overlay" in their zoning designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the historic preservation district by the letters "HO" as a suffix to the use designated. Changes to the same may be initiated by any person by request submitted to the planning and zoning commission.

- (c) Property owners within a proposed historic preservation district shall be notified by certified mail no less than 15 days prior to the planning and zoning commission hearing on the recommended designation. At the commission's public hearing, owners, interested parties, and technical experts may present testimony or documentary evidence which will become part of a record regarding the historic, architectural, or cultural importance of the proposed historic preservation district.
- (d) The proposed addition of or modification to an historic preservation district shall be submitted to the planning and zoning commission at the earliest available meeting and no later than 30 days from the date of the designation request. The commission shall give notice and conduct its hearing on the proposed designation at the earliest possible meeting and within 45 days of receipt of a proposed landmark designation. Such hearing shall be in the same manner and according to the same procedures as specifically provided in this chapter. The commission shall make its recommendation to the city council within 45 days subsequent to the hearing on the proposed designation.
- (e) The city council shall schedule a hearing of the planning and zoning commission's recommendation to be held within 45 days of receipt of the recommendation of the commission. The city council shall give notice, follow the publication procedure, hold required hearings, and make its determination in the same manner as provided in this chapter.
- (f) Upon designation of an historic preservation district, the city council shall cause the designated district to be recorded on the official zoning map.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-346 Criteria for designation of historic landmarks and districts.

- (a) Historic landmarks are sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic landmark may be designated if it exhibits two or more of the following characteristics:
 - (1) Represents an established and familiar visual feature of the city;
 - (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
 - (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
 - (4) Is associated with events that are significant to our past;
 - (5) Is associated with an individual or group having a profound influence on the history of the city; or
 - (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.
- (b) Historic preservation districts may be designated if the properties within the proposed district contain a density of established sites, structures, or features that possess significance in history, architecture, military, political, economic, scientific, archeology, culture or other value. An historic preservation district may be designated if the proposed district exhibits a density of properties with the following characteristics:
 - (1) Represents an established and familiar visual feature of the city;

- (2) Is believed to be of basic and vital importance for preservation of culture, neighborhoods and/or economic development;
- (3) Is associated with events that have made a contribution to the patterns of local, regional, state and/or national history;
- (4) Is associated with events that are significant to our past;
- (5) Is associated with an individual or group having a profound influence on the history of the city; or
- (6) Is a prototype of, or an outstanding example of a period, style, architectural movement or construction.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-347 Approval for alteration or new construction within historic preservation districts or affecting historic landmarks.

No person shall carry out any exterior construction, reconstruction, alteration, restoration, rehabilitation, demolition, or relocation of any historic landmark or any property within an historic preservation district, nor shall any person make any material change to other exterior elements visible from a public right-of-way which will affect the appearance and cohesiveness of any historic landmark or any property within an historic preservation district without receiving approval from the planning and zoning commission. New construction within an historic preservation district or on property designated as an historic landmark, or buildings or structures moved onto a property within an historic preservation district or onto property designated as an historic landmark will be subject to and in accordance with the design guidelines for the city.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-348 Nonconforming structures.

NOTE TO REVIEWERS: (b) and the stricken paragraph comes from the City's adopted Historic Preservation Guidelines.

- (a) *Compliance with design standards.* Commercial, institutional, and residential structures existing within the historic preservation district, or on property designated as an historic landmark, prior to the effective date of the ordinance from which this article is derived shall not be required to be altered, repaired or modified to meet existing design ~~criteria—standards in Sec. 98-351~~, *Historic preservation standards*, unless major façade or structural renovations are planned by the property owner. Major façade or structural renovations are defined as changes or renovations to 25 percent or more of any façade of the structure or improvements facing a street.

(Ord. No. 2014-03 , § 1, 5-20-2014)

- (b) *Rebuilding damaged or destroyed buildings or structures.* If a lawful nonconforming building or structure in a historic district is damaged by fire, explosion, act of God or other calamity, the building or structure may be rebuilt or repaired at the same location with the approval of the Planning and Zoning Commission as long as the building is consistent with the original structure. New construction that is not consistent with the original structure must comply with the design ~~guidelinesstandards in Sec. 98-351~~ *provided in this section.*

~~Nonconforming uses and structures. Except as otherwise provided in this document, the Zoning Ordinance of the City of Montgomery relating to nonconforming uses and structures applies to all historic districts and all properties designated as a historic landmark.~~

Sec. 98-349 Historic preservation district/landmark building permit application procedures.

- (a) Prior to the commencement of any work requiring planning and zoning commission approval in accordance with this article, the owner shall follow standard procedures for a building permit application and provide the following information for review:
- (1) Name, address, email address and telephone number of the applicant and property owner;
 - (2) A detailed description of proposed work;
 - (3) Location and photograph of the property and adjacent properties;
 - (4) A written narrative describing the design intent and historical precedence is required. Historical photographs may be submitted if available;
 - (5) Elevation drawings of the proposed changes;
 - (6) Description of materials and colors to be used; and
 - (7) If the proposal includes signs or lettering, in addition to meeting all sign ordinances of the city, a scale drawing showing the type of lettering to be used, all dimensions and colors, a description of materials to be used, method of illumination (if any), and a plan showing the sign's location on the property.
- (b) Planning and zoning commission approval required by this article shall be in addition to, and not in lieu of, any other building permit requirements for the city.
- (c) The planning and zoning commission shall review the application at the first regularly scheduled meeting after the application is received, at which time an opportunity will be provided for the applicant to be heard. The planning and zoning commission shall approve, approve with modifications, or deny the request. A denied application may be resubmitted to the planning and zoning commission after required adjustments are made.
- (d) All decisions of the planning and zoning commission shall be in writing. The commission's decision shall state its findings pertaining to the approval, denial, or modification of the application. A copy shall be sent to the applicant and a copy shall be filed with the city secretary as part of the public record.
- (e) An applicant dissatisfied with the action of the planning and zoning commission relating to the issuance or denial of building permit approval, as a result of this article, shall have the right to appeal to the city council by submitting a request in writing to the city within 30 days after receipt of notification of such action.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-350. Criteria for approval by the planning and zoning commission.

Approval by the planning and zoning commission shall be guided by the adopted design guidelines for the city. The design guidelines for the city shall be made available at the office of the city secretary.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-351 Historic preservation design standards. ~~Special setback provisions.~~

NOTE TO REVIEWERS: Starting at (a)(2), the language in this Section comes from the City's adopted HP Guidelines.

- (a) *Building placement, form, and treatment.* ~~Special setback provisions.~~
- (1) Main building placement.
 - a. New ~~commercial~~ structures or improvements ~~being built in where~~ the historic district ~~overlay downtown commercial area (i.e., any building with front and/or rear façades facing~~

~~Liberty, Caroline, Prairie, Maiden, McCown, John Butler, or College Streets, and which are located between State Highway 105 on the south and Clepper Street on the north) intersects with the DT District shall comply with Sec. 98-288, Height and area regulations.~~

- b. ~~New structures or improvements in the historic overlay but outside of the DT District shall will be required to~~ adhere to front (main entrance) setbacks that match immediately adjacent buildings or structures facing the same street. If new commercial structures or improvements are being constructed between existing buildings or structures whose setback lines do not match, the new building or structure's front (main entrance) setback line must match the adjacent building or structure whose front (main entrance) setback line is closest to the street which the adjacent structure or building faces.

- (2) *Accessory building placement.* Accessory buildings are only permitted in the rear yard and the interior side yard.

~~{Ord. No. 2014 03, § 1, 5 20 2014}~~

- (3) *Additions.* Additions to a main building are only permitted on the side and rear facades, except that a porch may be added to the front facade if such addition is consistent with the architecture of the period for the building. Other exceptions may be reviewed by the Planning and Zoning Commission. All additions to a building must be compatible with the dominant horizontal or vertical characteristics, scale, shape, roof form, materials, detailing, and color of the building. Additions must be consistent with the style of the house as originally constructed.
- (4) *Architectural detail.* Materials, colors, structural and decorative elements, and the manner in which they are used, applied, or joined together must be typical of the style and period of the other buildings and compatible with similar, conforming structures in the historic district.
- (5) *Awnings.* Awnings on the front and corner side facade must be made to complement the main building in style and color. Awnings must be typical of the style and period of the main building, and compatible with other conforming structures of a similar style in the historic district.

~~Building placement. All structures within a historic district or on a property designated as a historic landmark must comply with the standards contained in the City of Montgomery Code of Ordinances.~~

~~Building widths. All structures within a historic district must comply with the property setback standards established in the Zoning Ordinance of the City of Montgomery.~~

- (6) *Chimneys.* All chimneys must be compatible with the style and period of the main building and the conforming structures of a similar style in a historic district. Chimneys on the front 50 percent of a main building or on a corner side facade must be:
- Constructed of brick or other materials that look typical of the style and period of the main building; and
 - Of a style and proportion typical of the style and period of the main building.
- (7) *Color.*
- Brick surfaces.* Brick surfaces not previously painted may not be painted unless the applicant establishes that the color and texture of replacement brick cannot be matched with that of the existing brick surface or that the painting is necessary to restore or preserve the brick itself.
 - Certain colors prohibited.* Fluorescent and metallic colors are not permitted on the exterior of any structure in a historic district.

- c. *Dominant and trim colors.* All structures must have a dominant color and no more than five trim colors. Trim colors must complement the dominant color of a structure and be appropriate to and compatible with the structure, and the overall character of the historic district. The colors of a structure must be complementary to each other and the overall character of the historic district.
- d. *Gutters and downspouts.* Where appropriate, gutters and downspouts must be painted or colored to match the trim color or the roof color of the structure.
- e. *Roof colors.* Roof colors must complement the style and overall color scheme of the structure.
- f. *Stain.* The use and color of stain must be typical of the style and period of the building.

(8) *Columns.*

- a. *Function.* Columns are only permitted as vertical supports near the front entrance of the main building or as vertical supports for porches.
- b. *Materials.* Columns must be constructed of masonry or wood or other materials that match the style of the main building.

(9) *Facade materials.*

- a. *In general.* The only permitted facade materials are stone, brick, and lap siding composed of wood or fiber cement that looks like wood. All facade treatments must be done in a manner so as not to change the character of the building or obscure the architectural features and trim of the building.
- b. *Facades.* Existing facades must be preserved to appear in a manner for which they were originally intended.

~~Pre-fabricated metal accessory buildings are permitted if they are completely screened from view from any abutting street or private property.~~

(9) *Front entrances, stoops, and porches.*

- a. *Dimensions.* New porches and stoops shall comply with the building design requirements of Sec. [98-395](#), *DT district*.
- b. *Detailing.* Railings, moldings, tile work, carvings, and other detailing and architectural decorations on front entrances and front porches must be typical of the style and period of the main building and the conforming structures of a similar style in the historic district.
- c. *Enclosures.* A front entrance or front porch may not be enclosed with any material, including iron bars, glass, or mesh screening without approval by the P & Z Commission.
- d. *Floor coverings.* Carpeting is not permitted as a front porch floor or step covering. Non-slip nosing and tread surfacing are allowed.
- e. *Style.* Each front porch and entry treatment must have a shape, roof form, materials, and colors that are typical of the style and period of the building and must reflect the dominant horizontal or vertical characteristics of the main building and the conforming structures of a similar style in the historic district.
- f. *Porte cocheres.* Porte cocheres must be preserved as architectural features and not be enclosed by fences, gates, or any other materials without approval by the Planning and Zoning Commission.

(10) *Roof forms.*

- a. *Materials and colors.* Roof materials and colors must complement the style and overall color scheme of the building or structure. On residential structures, tar and gravel (built-up) and other

low slope membrane systems are permitted only as a roof material on covered porches and porte cocheres with low slope roofs. Carpet is not permitted as a roof material. Composition shingle, cedar or metal shingle, and non-corrugated, standing seam metal roofing materials are permitted.

- b. *Overhang.* The minimum permitted roof overhang for a new or move-in main building is 12 inches. A replacement roof on an existing building must have an overhang equal to or greater than the overhang of the roof it replaces.
- c. *Patterns.* Roof patterns of a main building must be typical of the style and period of the architecture of the building and the conforming structures of a similar style in the historic district.
- d. *Slope and pitch - residential.* The degree and direction of roof slope and pitch must be typical of the style and period of the main building and compatible with existing building forms in the historic district. In no case is a roof permitted with a pitch less than a four and one-half-inch rise in any 12 inch horizontal distance. Flat roof designs are not permitted on main or accessory buildings or structures, except that a covered porch or porte cocheres may have a flat roof that is typical of the style and period of the main building.
- e. *Slope and pitch - ~~commercial~~nonresidential and mixed-use.* Low slope roofs with parapets are allowed as a primary roof for commercial structures.
- f. *Slope and pitch - accessory buildings.* Accessory buildings must have pitched roofs.

(10) *Windows and doors.*

- g. *Glass. ~~Front facade openings.~~*
 - i. *Glass Types.* Clear, decorative stained, beveled, etched, and clear leaded glass may be permitted in any window opening. Reflective, tinted, opaque, and mirrored glass and plastic are not permitted in any opening.
 - ii. *Translucent Glass.* Translucent glass is not permitted, except in bathrooms, front doors, sidelites, specialty windows and commercial storefronts.
 - iii. *Glass Area.* No glass pane may exceed 16 square feet in area unless part of the original design or in commercial storefronts in which case a pane may not exceed fifty 50 square feet.
- h. *Screens, storm doors, and storm windows.* A screen, storm door, or storm window on a front or side facade of a main building may be permitted only if:
 - i. Its frame matches or complements the color scheme of the main building; and
 - ii. It does not obscure significant features of the window or door it covers.
- i. *Security and ornamental bars.* Security and ornamental bars are permitted pending review by the Planning and Zoning Commission on any side of a main or accessory building abutting a street.
- j. *Style.*
 - i. All windows, doors, sidelites, and shutters in the front or side facade of a main building must be proportionally balanced in a manner typical of the style and period of the building.
 - ii. The size and proportion of window and door openings located on the front and side facades of a main building must be typical of the style and period of the building.
 - iii. The frames of windows should be trimmed in a manner typical of the style of the building.

(b) *Fences.* Fences must be consistent with the same period of the main building.

- (1) *Form.* Fences must be constructed and maintained in a vertical position.
- (2) *Height.* Within a front yard, no fence or wall shall be erected to exceed a height of four (4) feet.

- (3) *Location.*
 - a. A fence in an interior side yard must be located no further forward on the lot than the front of the main building.
 - b. A fence in a corner side yard must not be directly in front of the corner side facade, except that the building official may allow a fence that is directly in front of the corner side facade if:
 - i. More screening is necessary to insure privacy due to unusually high pedestrian or vehicular traffic; and
 - ii. The fence does not screen all or any portion of a significant architectural feature of the main building.
 - c. A fence must run either parallel or perpendicular to a building wall or lot line.
- (4) *Materials.* A fence in a front or corner side yard must be constructed of wrought iron, wood or brick. Concrete block fences are not permitted.
- (5) *Masonry columns and bases.* The color, texture, pattern and dimensions of masonry and the color, width, type and elevation of mortar joints in a fence column or base must match the masonry and mortar joints of the main building as nearly as practicable.
- (6) *Metal fences.* Wrought iron and metal fences must be compatible with the style and period of the main building. Non-decorative chain link, barbed, and razor wire fences are permitted only in back yards and must not be visible from adjacent properties or abutting streets.
- (7) *Wooden fences.*
 - a. All wooden structural posts must be at least four inches by four inches in diameter (nominal size).
 - b. Wooden fences facing a public street must present the finished side to the street.
 - c. Wooden fences may be painted or stained a color that is complementary to the main building.

Sec. 98-352 Approval required for demolition.

- (a) A permit for the demolition of an historic landmark or property within an historic preservation district, including secondary buildings, must be reviewed and approved by the planning and zoning commission and forwarded to the city council for final approval. The commission shall consult with the city on any application submitted, and shall consider and review any findings and recommendations of the city.
- (b) A structure deemed as an unsafe building under the city's ordinances may be demolished only with a permit from the city after city council approval.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-353 Economic hardship application procedure.

- (a) After receiving written notification from the planning and zoning commission of the denial of a permit request, an applicant may commence the hardship process. No building permit or demolition permit may be issued unless the commission makes a finding that an economic hardship exists.
- (b) When a claim of economic hardship is made due to the effect of this article, the owner must prove that:
 - (1) The property is incapable of earning a reasonable return, regardless of whether that return represents the most profitable return possible;
 - (2) The property cannot be adapted for any other use, whether by the current owner or by a purchaser, which would result in a reasonable return; and
 - (3) Efforts to find a purchaser interested in acquiring the property and preserving it have failed.

- (c) The applicant shall consult in good faith with the planning and zoning commission, local preservation groups and interested parties in a diligent effort to seek an alternative that will result in preservation of the property. Such efforts must be shown to the commission.
- (d) The planning and zoning commission shall hold a public hearing on the application within 60 days from the date the application is received by the city secretary. Following the hearing, the commission has 30 days in which to prepare a written response to the applicant. In the event that the commission does not act within 90 days of the receipt of the application, a permit may be granted.
- (e) All decisions of the planning and zoning commission shall be in writing. A copy shall be sent to the applicant by registered mail and a copy filed with the city secretary's office for public inspection. The commission's decision shall state the reasons for granting or denying the hardship application.
- (f) If an applicant is dissatisfied with the action of the planning and zoning commission, he shall have the right to appeal to the city council within 30 days after receipt of notification of such action. The city council shall give notice, follow publication procedure, hold hearings, and make its decision in the same manner as provided in the general zoning ordinance of the city.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-354 Enforcement.

All work performed pursuant to a building permit issued under this article shall conform to any requirements included therein. It shall be the duty of the city building official (or other designated official) to inspect periodically any such work to ensure compliance. In the event work is not being performed in accordance with the approved scope of work, or upon notification of such fact by the pPlanning and zZoning eCommission and verification by the designated official, the official shall issue a stop work order and all work shall immediately cease. No further work shall be undertaken on the project as long as a stop work order is in effect.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-355 Ordinary maintenance.

Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any exterior architectural feature of a landmark or property within an historic preservation district which does not involve a change in design or outward appearance.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-356 Demolition by neglect.

No owner or person with an interest in real property designated as a landmark or included within an historic preservation district shall permit the property to fall into a serious state of disrepair so as to result in the deterioration of any exterior architectural feature which would, in the judgment of the planning and zoning commission, produce a detrimental effect upon the character of the historic preservation district as a whole or the life and character of the property itself. Examples of such deterioration include:

- (1) Deterioration of exterior walls or other vertical supports;
- (2) Deterioration of roof or other horizontal members;
- (3) Deterioration of exterior chimneys;
- (4) Deterioration or crumbling of exterior stucco or mortar;

- (5) Ineffective waterproofing of exterior walls, roof, or foundations, including broken windows or doors;
- (6) Deterioration of any feature so as to create a hazardous condition which could lead to the claim that demolition is necessary for the public safety.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Sec. 98-357 Penalties.

In addition to the penalties set out under this chapter, the following penalties, which are non-exclusive, and the exercise of one or more of which shall not preclude exercise of the others, shall be imposed on those persons or entities found to have violated this article:

- (a) *Restrictions on future development.* If an historic resource, either a landmark or one located within the boundaries of the historic preservation district, is demolished or relocated without proper approval, or in the event the plans are changed for the property from which the resource was removed without approval of the changed plans by the planning and zoning commission, then the following restrictions, in addition to any other penalties or remedies set forth in this article, shall be applicable to the site where the structure or property was formerly located:
 - (1) No building or other permits will be issued for construction on the site, with the exception of a permit to restore such structure or property after obtaining a permit, for a period of two years after the date of such demolition or removal. The city may file a certificate evidencing a violation of this section in the city's official public records of real property.
 - (2) No permits shall be issued by the city for any curb cuts on the site for a period of two years from and after the date of such demolition or removal.
 - (3) No parking lot for vehicles shall be operated whether for remuneration or not on the site for a period of two years from and after the date of such demolition and removal.
 - (4) The owner of the site shall maintain the site in a clean and orderly state and shall properly maintain all existing trees and landscaping on the site. When these restrictions become applicable to a particular site, the city building official shall cause to be filed a verified notice thereof in the real property records of the county and such restrictions shall then be binding on future owners of the property.
- (b) *Cumulative remedies.* The provisions of this section shall apply in addition to other enforcement procedures or penalties which are available at law or in equity, including, but not limited to, those available for adversely affecting historic structures or property under V.T.C.A., Local Government Code § 315.006 and V.T.C.A., Government Code § 442.016 , as the same may be amended from time to time, with injunctive remedies and the like.
- (c) *Civil action.* As an additional remedy in addition to the penalties stated above, the city attorney or his designee shall have the power to take all necessary civil action to enforce the provisions hereof and to request appropriate legal or equitable remedies or relief.

(Ord. No. 2014-03 , § 1, 5-20-2014)

Secs. 98-358—98-387 Reserved.

ARTICLE VIII. BUILDING DESIGN

Sec. 98-393. Residential Building Design Standards

- (a) **Applicability.** These building design standards apply to all new construction of development, redevelopment of, and expansion of townhouse and multi-unit residential principal buildings in all zoning districts as permitted in [ARTICLE III, Districts and Zoning Map](#).
- (b) **General Residential Building Design Standards.** All residential buildings in every zoning district shall comply with the standards detailed in Table 98-393-1, *Minimum Residential Building Design Standards*, and shall meet the minimum design points as specified in [Paragraph C\(3\), Minimum Amount of Points Required](#).

Table 98-393-1, Minimum Residential Building Design Standards	
Building Design Element	Design Standard
Building Orientation and Layout	
<p><i>Stairs</i></p> <ul style="list-style-type: none"> ▪ Townhouse and Multiplex ▪ Multi-Unit Residential 	<ul style="list-style-type: none"> ▪ All stairs shall lead to a covered primary entrance. ▪ All stairs shall be at least 90 percent enclosed or hidden from the street view.
<i>Unit Variation</i>	
<ul style="list-style-type: none"> ▪ Townhouse 	<ul style="list-style-type: none"> ▪ <u>No more than two adjacent townhouses shall have identical architectural designs. A minimum of three of the following shall be incorporated between adjacent townhouses:</u> <ul style="list-style-type: none"> ▪ Varied rooflines (styles and heights). ▪ Facade treatments (diverse materials, textures, and patterns). ▪ Window configurations (variations in size, shape, and placement). ▪ Balcony and terrace designs (different railing styles, placements, and sizes). ▪ Building massing (variation in design, massing, and articulation).
<ul style="list-style-type: none"> ▪ Multi-Unit Residential 	<ul style="list-style-type: none"> ▪ <u>No more than two adjacent buildings or units within a site development shall have identical architectural designs.</u> ▪ <u>At least three of the following shall distinguish adjacent buildings:</u> <ul style="list-style-type: none"> ▪ Varied rooflines (styles and heights). ▪ Facade treatments (diverse materials, textures, and patterns). ▪ Window configurations (variations in size, shape, and placement). ▪ Balcony and terrace designs (different railing styles, placements, and sizes). ▪ Building massing (variation in design, massing, and articulation).
Parking	
<p><i>Parking Location (min.)</i></p> <ul style="list-style-type: none"> ▪ Multi-Unit Residential 	<ul style="list-style-type: none"> ▪ At least 90% of the parking shall be located to the side and rear of the building and not located along street frontage.

Table 98-393-1, Minimum Residential Building Design Standards

Building Design Element	Design Standard
Garage (2-car)	Raised panel doors or some type of relief feature.
Garage (3-car) (min.)	<ul style="list-style-type: none"> ▪ Raised panel doors or some type of relief feature; and ▪ the single-car garage must be set back a min. 1 ft. from double-car garage
Parking Garage (min.)	2 of the following: <ul style="list-style-type: none"> ▪ Variations in depth, plane, or texture. ▪ Decorative screens, trellises, or architectural panels. ▪ Differing heights, widths, or projections on at least 3 facades.
Carports	Carports shall be architecturally integrated with the main building, using materials, colors, and design elements that complement the principal structure.

(c) **Multiplexes, Townhouses, and Multi-Unit Dwellings.**

- (1) *Generally.* In addition to the standards in Table 98-393-1, *Minimum Residential Building Design Standards*, all multiplexes, townhouses and multi-unit dwelling buildings shall achieve the following minimum number of points in Table 98-393-2, *Minimum Number of Points Required*, from the menu of building design element options shown in Table 98-393-4, *Residential Building Design Options Menu*.
- (2) *Calculating Points.* For each building design element listed in Table 98-393-4 that is utilized, the corresponding number of points will be earned or deducted as listed in the last column.
- (3) *Minimum Number of Points Required.* All multiplex and multi-unit dwellings shall achieve the following minimum number of points from the menu of building design element options shown in Table 98-393-4, *Residential Building Design Options Menu*.

Table 98-393-2, Minimum Number of Points Required

Multiplex, Townhouse, or Multi-Unit Dwelling	Number of Points Required (min.)
Less than 10 dwelling units	40 points
10 to 50 dwelling units	50 points
More than 50 dwelling units	60 points

- (4) *Minimum Points for Height Bonus.* If the chosen design elements for a development project exceed the points specified in Table 98-393-3, *Minimum Points for Height Bonus*, the building may be eligible for a height bonus beyond the maximum height (as determined by the subject property's zoning district in [ARTICLE III, Districts and Zoning Map](#)). The height bonus allows a building to be increased by one foot for every five points exceeding the required points below (up to 15 feet).

Table 98-393-3, Minimum Points for Height Bonus

Multiplex, Townhouse, or Multi-Unit Dwelling	Number of Points Required (min.)
Less than 10 dwelling units	60 points
10 to 50 dwelling units	80 points
More than 50 dwelling units	85 points

Table 98-393-4, Residential Building Design Options Menu

Key: -- = Not Applicable

Building Design Element	Design Standard	Points Earned (+) or Deducted (-)
Building Design Features		
<i>Façade Width Before Articulation (max.)</i>	15 ft.	+5
<i>Façade Height Before Articulation (max.)</i>	15 ft.	+5
<i>Varied Design Features (min.)</i>	2 of the following: <ul style="list-style-type: none"> ▪ Dormer windows or cupolas; ▪ Pillars, posts, or pilasters; or ▪ Bay windows with a min. 12-in projection 	+10
<i>Masonry, Concrete, Stucco, Structural Clay Tile, or Glass¹ as the Primary Material²</i>	--	+15
<i>Metal, Vinyl, Siding, Wood, Composites, or Other Material as the Primary Material²</i>	--	-5
<i>Percentage of Ground Floor as Windows (min.)</i>	40% / 60%	+5 / +10
<i>Percentage of Upper Floor(s) as Windows (min.)</i>	40% / 60%	+5 / +10
<i>Neutral Building Colors</i>	--	+10
<i>Any Other Building Color</i>	--	-5
Roof Design Features		
<i>Standing Seam Metal or Shingles (Asphalt, Metal, Slate, or Wood)</i>	--	+15
<i>Asphalt, Concrete, Solar Shingles, and Vinyl Membrane</i>	--	-5
<i>Pitched Roof Over Principal Structure (min.)</i>	5/12 pitched roof design (including the roof area located over the garage)	+10
<i>Pitched Roof Over Porch and Entrances (min.)</i>	4/12 pitched roof design	+5
<i>Eave (min.)</i>	12" over all faces of the exterior walls	+5
Table Notes:		
1. The percentage ground or upper floor(s) windows cannot also be counted towards the primary material amount.		
2. The calculation of the primary material shall be based on the total surface area and shall consist of at least 80 percent of the materials listed above to receive the number of points indicated in the table.		

Sec. 98-394. Mixed-Use and Nonresidential Building Design Standards

- (a) **Applicability.** These building material standards apply to all new mixed-use and nonresidential developments, redevelopments, and expansions of principal buildings as permitted in [ARTICLE III, Districts and Zoning Map](#).
- (b) **General Mixed-Use and Nonresidential Building Design Standards.**
 - (1) *Generally.* All mixed-use and nonresidential buildings shall comply with Table 98-394-1, *Minimum Mixed-Use and Nonresidential Building Design Standards*, and shall meet the minimum design points as specified in [Paragraph b\(3\), Minimum Amount of Points Required](#).

Table 98-394-1, Minimum Mixed-Use and Nonresidential Building Design Standards	
Building Design Element	Design Standard
Primary Entrance	
<i>Sheltering Element (min.)</i>	<ul style="list-style-type: none"> ▪ Recessed or contain an awning, canopy, arcade, or portico; and ▪ Sheltering element shall be at least 15% of length of the wall to which it is attached.
Building Mass	
<i>Base (min.)</i>	8% of the average wall height
<i>Body (min.)</i>	60% of the average wall height
<i>Cap (min.)</i>	8% of the average wall height and not to exceed the height of the base
<i>Number of Cap Design Features (min.)</i>	2 of the following: <ul style="list-style-type: none"> ▪ Cornice; ▪ Parapet; ▪ Awning; ▪ Canopy; or ▪ Eaves
Parking	
<i>Parking Location (min.)</i>	At least 90% of the parking shall be located to the side and rear of the building and not located along street frontage.
<i>Parking Garage (min.)</i>	2 of the following: <ul style="list-style-type: none"> ▪ Variations in depth, plane, or texture. ▪ Decorative screens, trellises, or architectural panels. ▪ Differing heights, widths, or projections on at least 3 facades.

- (2) *Calculating Points.* For each building design element listed in Table 98-394-4, *Mixed-Use and Nonresidential Building Design Options Menu* that is utilized, the corresponding number of points will be earned or deducted as listed in the last column.
- (3) *Minimum Number of Points Required.* All mixed-use and nonresidential buildings shall achieve the minimum number of points in Table 98-394-2, *Minimum Number of Points Required*, from the

menu of building design element options shown in Table 98-394-4, *Mixed-Use and Nonresidential Building Design Options Menu*.

Table 98-394-2, Minimum Number of Points Required	
Mixed-Use and Nonresidential Development Gross Floor Area	Number of Points Required (<i>min.</i>)
<i>Less than 10,000 square feet of gross floor area</i>	40 points
<i>10,000 to 34,999 square feet gross floor area</i>	50 points
<i>35,000 to 60,000 square feet gross floor area</i>	60 points
<i>More than 60,000 square feet gross floor area</i>	70 points

- (4) *Minimum Points for Height Bonus.* If the chosen design elements for a development project exceed the minimum points required as specified in Table 98-394-3, *Minimum Points for Height Bonus*, the building may be eligible for a height bonus beyond the maximum height (as determined by the subject property's zoning district in [ARTICLE III, Districts and Zoning Map](#)). The height bonus allows a building to be increased by one foot for every five points exceeding the required points below (up to 15 feet).

Table 98-394-3, Minimum Points for Height Bonus	
Mixed-Use and Nonresidential Development Gross Floor Area	Number of Points Required (<i>min.</i>)
<i>Less than 10,000 square feet of gross floor area</i>	60 points
<i>10,000 to 34,999 square feet gross floor area</i>	70 points
<i>35,000 to 60,000 square feet gross floor area</i>	80 points
<i>More than 60,000 square feet gross floor area</i>	90 points

Table 98-394-4, Mixed-Use and Nonresidential Building Design Options Menu		
Key: -- = Not Applicable		
Building Design Element	Design Standard	Points Earned (+) or Deducted (-)
Building Design Features		
<i>Façade Width Before Articulation (max.)</i>	35 ft.	+5
<i>Façade Height Before Articulation (max.)</i>	15 ft.	+5
<i>Varied Design Features (min.)</i>	3 of the following: <ul style="list-style-type: none"> ▪ Canopies; ▪ Roof overhangs; ▪ Entry recesses; ▪ Arcades; ▪ Raised corniced parapets; ▪ Outdoor plaza; or ▪ Integral planters 	+10

Table 98-394-4, Mixed-Use and Nonresidential Building Design Options Menu

Key: -- = Not Applicable

Building Design Element	Design Standard	Points Earned (+) or Deducted (-)
Building Design Features		
<i>Varied Massing Techniques (min.)</i>	2 complying with Table 98-394-5, <i>Varied Massing Techniques</i> , below	+10
<i>Natural Stone, Masonry, Concrete, Stucco, Structural Clay Tile, or Glass¹ as the Primary Material²</i>	--	+15
<i>Metal, Vinyl, Siding, Wood, Composites, or Other Material as the Primary Material²</i>	--	-5
<i>Percentage of Ground Floor as Windows (min.)</i>	55% / 65%	+5 / +10
<i>Percentage of Upper Floor as Windows (min.)</i>	55% / 65%	+5 / +10
<i>Neutral Building Colors</i>	--	+10
<i>Any Other Building Color</i>	--	-5
Roof Design Features		
<i>Standing Seam Metal or Shingles (Asphalt, Metal, Slate, or Wood)</i>	--	+15
<i>Asphalt, Concrete, Solar Shingles, or Vinyl Membrane</i>	--	-5
<i>Eave (min.)</i>	12" over all faces of the exterior walls	+5

Table Notes:

- The percentage ground or upper floor(s) windows cannot also be counted towards the primary material amount.
- The calculation of the primary material shall be based on the total surface area and shall consist of at least 80 percent of the materials listed above to receive the number of points indicated in the table.

Table 98-394-5, Varied Massing Techniques

Description	Image	Standard
<p>Vertical Variation</p> <p>Vertical variation is a change in the height of at least one floor for a portion of the building.</p>		<p>A change in height shall count as a massing variation technique when it extends back a minimum of 40% of the depth of the building.</p>

Table 98-394.-5, Varied Massing Techniques

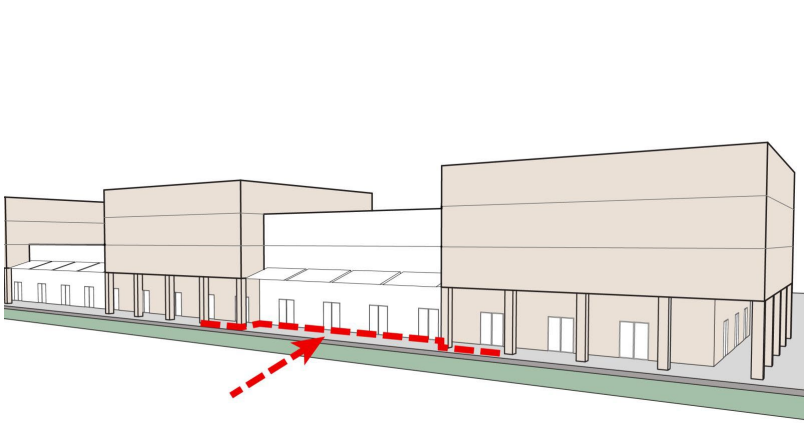
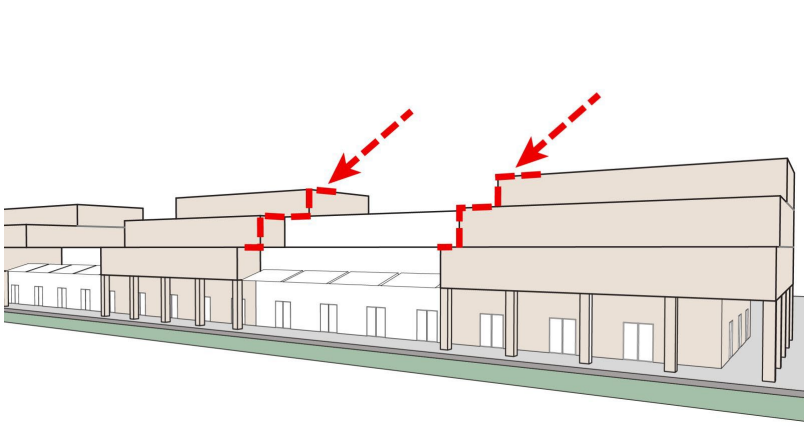
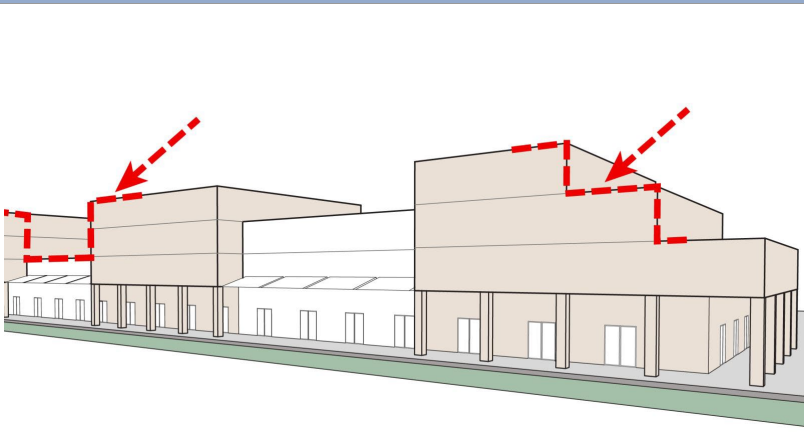
Description	Image	Standard
<p>Increased Setback</p> <p>A substantial offset in wall planes that extends the full height of the building and differentiates the building from adjoining buildings.</p>		<p>Minimum offset: 6 ft. Minimum width: 8 ft.</p>
<p>Upper-Level Front Stepback</p> <p>An upper-level front stepback adds visual interest and reduces the mass of a larger building.</p>		<p>Minimum stepback of 15 ft. above the first floor.</p>
<p>Upper-Level Side Stepback</p> <p>An upper-level side stepback occurs at the end of a building and is effective in providing a transition to a sensitive edge and to public walkways.</p>		<p>A change in height shall count as a varied massing technique when the stepback extends a minimum of 40% of the total building length (measured from end-to-end).</p>
<p>Building Corner or Focal Point</p>		

Table 98-394.-5, Varied Massing Techniques		
Description	Image	Standard
<p>Building corner elements or focal points are achieved using the techniques in this table or can be achieved by adding a strong visual element.</p>		<p>Visual elements may extend 15 ft. above the maximum height at building corners.</p>
Roof Variation		
<p>Roof variations add visual interest to the building.</p>		<p>A roof variation shall count as a varied massing technique when the minimum roof pitch of at least one roof is: 2:4 and is at least 80% along the frontage.</p>

- (c) **Outdoor Dining Facilities.** The following development standards apply to all outdoor dining areas:
- (5) **Clear Path.** A clear path of at least five feet wide, free of all obstructions to the flow of pedestrian traffic, shall be provided in the public right-of-way and shall be maintained at all times.
 - (6) **Shall Not Obstruct an Entrance.** No outdoor dining area shall obstruct the entrance to any building, interfere with or impede the flow of pedestrian or vehicle traffic, or create any other condition that is detrimental to the appearance of the premises or any surrounding property, or in any other manner that is detrimental to the public health, safety or welfare or causes a public nuisance.
 - (7) **Furniture.** Outdoor dining area furniture, including but not limited to tables, chairs, and umbrellas, shall be of high quality and consistent with the theme of the primary establishment or overall premises.
 - (8) **Hours and Circulation.** An outdoor dining area shall be used only for dining, drinking, and circulation, and shall operate only in conjunction with and during the same hours as the adjacent eating and drinking establishment.
 - (9) **Free of Litter.** The area within, and adjacent to, the outdoor dining area shall be clean and free of litter at all times.

- (10) *Trash or Storage Areas.* Trash or storage areas shall not be located on or adjacent to the public right-of-way and shall be screened.
 - (11) *Orientation.* Outdoor dining shall be oriented away from adjacent residential uses except as approved by the approving authority.
 - (12) *Parking.* Parking shall be in compliance with the standards of [ARTICLE IV, Off-Street Parking Requirements](#), for the primary use and shall include any outdoor dining area that is in excess of 200 square feet as part of the dining area or GFA.
- (d) **Drive-In or Drive-Through Facilities.**
- (1) *Access.* The entrance and exit to all drive-in and drive-through facilities shall take access from an arterial or collector street.
 - (2) *Location.* The drive-in or drive-through facility shall not be located within the front yard setback.
 - (3) *Screening.* Ordering stations facing abutting residentially zoned or used property shall be screened with landscaping and with a fence at least five feet in height.
- (e) **Outdoor Commercial Storage.**
- (1) *Where Permitted.* Outdoor storage for nonresidential uses is permitted in the ID zoning district. Unless otherwise explicitly exempted, outdoor storage for nonresidential uses that are located in districts that are not set out in this Section is prohibited.
 - (2) *Location.*
 - a. *Generally.* Outdoor storage areas may be adjacent to the principal building and shall be located in side or rear yards, provided that all minimum setback depths are maintained.
 - b. *Agricultural Uses.* Outdoor storage areas for agricultural equipment or materials in any zoning district shall be set back 100 feet from public rights-of-way and properties that have different zoning.
 - (3) *Area of Storage.* The total square footage of such storage areas shall not exceed 50% of the gross floor area of the principal building on the site.
 - (4) *Surfacing and Drainage.* All outdoor storage facilities, including access aisles, driveways, and maneuvering areas, shall be composed of an all-weather surface and shall meet the drainage requirements of the City.
 - a. *Maneuvering of Inventory.* The site shall be of adequate size, shape, and design to ensure:
 - i. All maneuvering of inventory will be contained on-site;
 - ii. No inventory will be backed onto the site from the public right-of-way;
 - iii. All on-site maneuvering shall occur without encroaching onto adjacent properties or rights-of-way; and
 - iv. Inventory will be maneuvered without conflicting with vehicular use areas.
 - (5) *Buffering.* Outdoor storage areas shall be buffered.
 - a. *Minimum Width.*
 - i. *Natural with Berm.* Bufferyards containing a berm shall be a minimum width of 35'.
 - ii. *Structural.* Bufferyards containing a fence or wall shall be a minimum width of 20'.
 - b. *Canopy Trees.* All bufferyards shall contain a minimum of 3 canopy trees per 100 linear feet.
 - c. *Ornamental Trees.* All bufferyards shall contain a minimum of 5 ornamental trees per 100 linear feet.

- d. *Shrubs.*
 - i. *Natural with Berm.* Bufferyards containing a berm shall contain a minimum of 25 shrubs per 100 linear feet.
 - ii. *Structural.* Bufferyards containing a fence or wall shall contain a minimum of 10 shrubs per 100 linear feet.
- (6) *Screening.*
 - a. *Screening Required.* Outdoor storage areas shall be screened in one of the following ways:
 - i. Enclosed by a wall that is designed into the principal building's facade and composed of the same materials as the principal building; or
 - ii. Enclosed by a wall or opaque fence of sufficient height to completely screen the stored materials from public view. Such wall or fence shall be landscaped with shrubs planted 36 inches on center that are maintained as a hedge around the entire periphery of the wall, except at points of access.
 - b. *Exemptions.* The following types of outdoor storage are exempt from the screening requirements, above:
 - i. Retail planting stock and landscape stone or similar landscape materials, associated with a nursery or greenhouse;
 - ii. Commercial vehicles related to a permitted business on-site; and
 - iii. Finished recreational vehicles, automobiles, portable buildings, boats, trailers, manufactured homes, and other similar vehicles or equipment sold by a permitted use on-site.
- (7) *Mobile Homes.* No mobile home shall be stored for any purpose on any parcel of land within the City limits or other than a recognized storage lot.

~~ARTICLE VII. – CORRIDOR ENHANCEMENT~~

~~Sec. 98-388. – Purpose.~~

~~The city council hereby declares that as a matter of public policy, that it is desirable and in the best interest of the public health, safety, morals and general welfare of the citizens of the city to provide for the enhancement of the overall visual image and perception of the city along its main entryways and corridors by requiring construction standards for exterior walls and façades on buildings along these corridors.~~

~~{Ord. No. 2014-03, § 1, 5-20-2014}~~

~~Sec. 98-389. – District boundaries and designation of properties.~~

~~(a) Properties subject to the requirements of this article and designated as the corridor enhancement district include all properties located with 750 feet of the right-of-way of:~~

~~(1) Texas State Highway 105, extending from the eastern boundary of the corporate limits of the city to the western boundary of the corporate limits of the city.~~

~~(b) Properties subject to the requirements of this article and designated as the corridor enhancement district include all properties located within 300 feet of the right-of-way of:~~

~~(1) Texas State Farm Road 149, extending from the northern boundary of the corporate limits of the city to the southern boundary of the corporate limits of the city; and~~

~~(2) The entire Lone Star Parkway, extending from Texas State Highway 105 on the east to Texas State Highway 105 on the west; and~~

~~(3) Texas State Farm Road 1097, extending from the northeastern boundary of the corporate limits of the city to Texas State Farm Road 149.~~

~~(c) The city council may, from time to time, following recommendation either for or against such designation by the planning and zoning commission, designate certain additional areas in the city as a corridor enhancement district, and define, amend, or eliminate the boundaries of designation. Such designation and the requirements thereof shall be in addition to any other zoning district designation or requirement established in this chapter. All zoning maps shall reflect the corridor enhancement district by the letters "CE" as a suffix to the use designated. Changes to the corridor enhancement district may be initiated by any person by request submitted to the city secretary.~~

~~{Ord. No. 2014-03 , § 1, 5-20-2014; Ord. No. 2018-02 , § 2, 1-23-2018}~~

~~Sec. 98-390. –General requirements.~~

~~(a) The construction of metal buildings is allowed within the corridor enhancement district; however, metal panels and exposed concrete masonry units (CMU) of any kind are prohibited on the exterior walls and facades of such buildings. Areas zoned as District ID are partially exempt from this requirement, provided that the main entrance of the building visible from the main entryways and corridors shall be 100 percent covered by the approved materials listed in subsection (b) of this section. The remaining exterior facades of a building within an area zoned as district ID must be at least 50 percent covered by a wainscoting of the approved materials listed in subsection (b) of this section, from the front to the back of the façade wall.~~

~~(b) Within the corridor enhancement district, acceptable façade materials that may be used on buildings or structures, individually or in combination, include:~~

~~(1) Natural stone.~~

~~(2) Brick.~~

~~(3) Wood.~~

~~(4) Fiber cement siding (e.g., Hardiplank).~~

~~(5) Stucco or similar exterior finishing system.~~

~~(6) Pre-cast concrete panels which are painted or integrally colored.~~

~~(7) Exposed aggregate concrete.~~

~~(8) Any other acceptable system that is not metal panel.~~

~~(c) New construction within the corridor enhancement district or buildings moved into the corridor enhancement district will be subject to the construction standards defined in this article.~~

~~(d) The city encourages property owners, architects and builders to recognize the historic significance of the city, and the desire to maintain and enhance the historic ambiance of the area. Therefore, voluntary compliance with other architectural aspects of the design guidelines for the city is strongly recommended.~~

~~{Ord. No. 2014-03, § 1, 5-20-2014; Ord. No. 2017-03, § II, 1-10-2017}~~

~~Sec. 98-391. — Exceptions and exemptions.~~

~~(a) Commercial, institutional, and residential structures existing within the corridor enhancement district, prior to the effective date of the ordinance from which this article is derived, shall not be required to be altered, repaired or modified to meet existing design criteria unless major façade or structural renovations are planned by the property owner. Major façade or structural renovations are defined as changes or renovations to 25 percent or more of any façade of the structure or improvements facing a public right-of-way, street or roadway.~~

~~(b) Exceptions to these requirements may be reviewed by the planning and zoning commission for a recommendation to city council for approval on a case-by-case basis, provided that the commission and city council find that the proposed building materials and arrangement of these materials will enhance and preserve the character along the corridor in which the structure is located. Consideration for exceptions to the above requirements shall be based on the architectural design and creativity of the structure, and its compatibility with surrounding developed properties.~~

~~(c) Exceptions reviewed by the planning and zoning commission and approved by city council shall be in effect for only the structure specifically authorized and shall become null and void should no building permit be issued within 90 days or should the building permit for the specific structure expire.~~

~~(d) The provisions of this article shall not be construed to apply to properties located within any planned development district in which deed restrictions have already been approved by the city.~~

~~{Ord. No. 2014-03, § 1, 5-20-2014}~~

~~Sec. 98-392. — Enforcement.~~

~~(a) A list of intended exterior materials will be submitted along with the building permit application. Building permits will not be approved unless acceptable external materials will be used.~~

~~(b) The city engineer and/or building inspector will review construction to ensure compliance with this article, and no certificate of occupancy will be granted until compliance with this article is achieved.~~

~~{Ord. No. 2014-03, § 1, 5-20-2014}~~

Sec. 98-395. DT district

(a) *Applicability.* Refer to Sec. [98-286\(b\)](#), Applicability, for development activities in the DT District that require compliance with this Section.

(b) *General Standards.* This Section shall apply in addition to the standards of [Sec. 98-393.](#), *Residential Building Design Standards*, and [Sec. 98-394.](#), *Mixed-Use and Nonresidential Building Design Standards*. Where there is a conflict between the standards of those Sections and this Section, this Section shall apply.

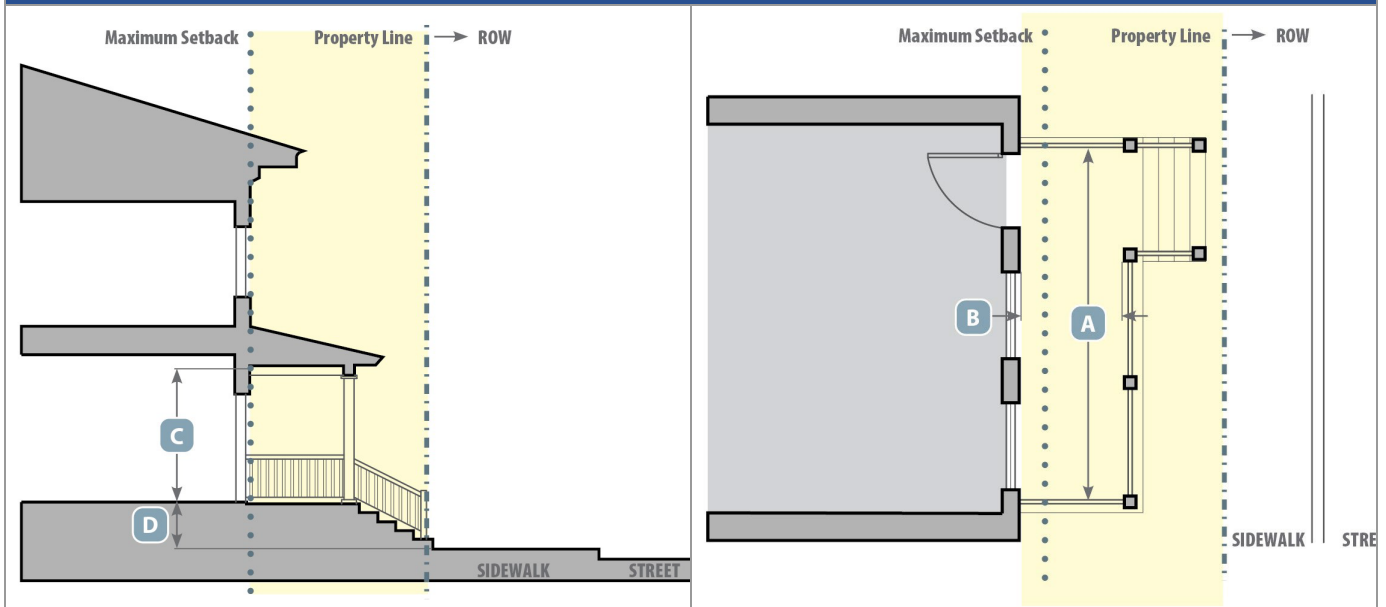
(c) *Residential Standards.*

(1) *General.* These residential standards apply to residential structures in the DT District.

a. *Upper-Story Residential.* The standards in [Subsection \(d\)](#), *Nonresidential and Mixed-Use Standards*, shall apply to the upper-story residential portion of the building.

- b. **Townhouse.** A townhouse shall have one of the following at the building entrance in accordance with Figure 98-395-1, *Porch Standards*, or Figure 98-395-2, *Stoop Standards*.

Figure 98-395-1, Porch Standards



Dimensional Standards

A	Width, Clear (minimum)	8 ft.
B	Depth, Clear (minimum)	5 ft.
C	Porch Height, Clear (minimum)	8 ft.
D	Finish Level Above Sidewalk (minimum)	1.5 ft.

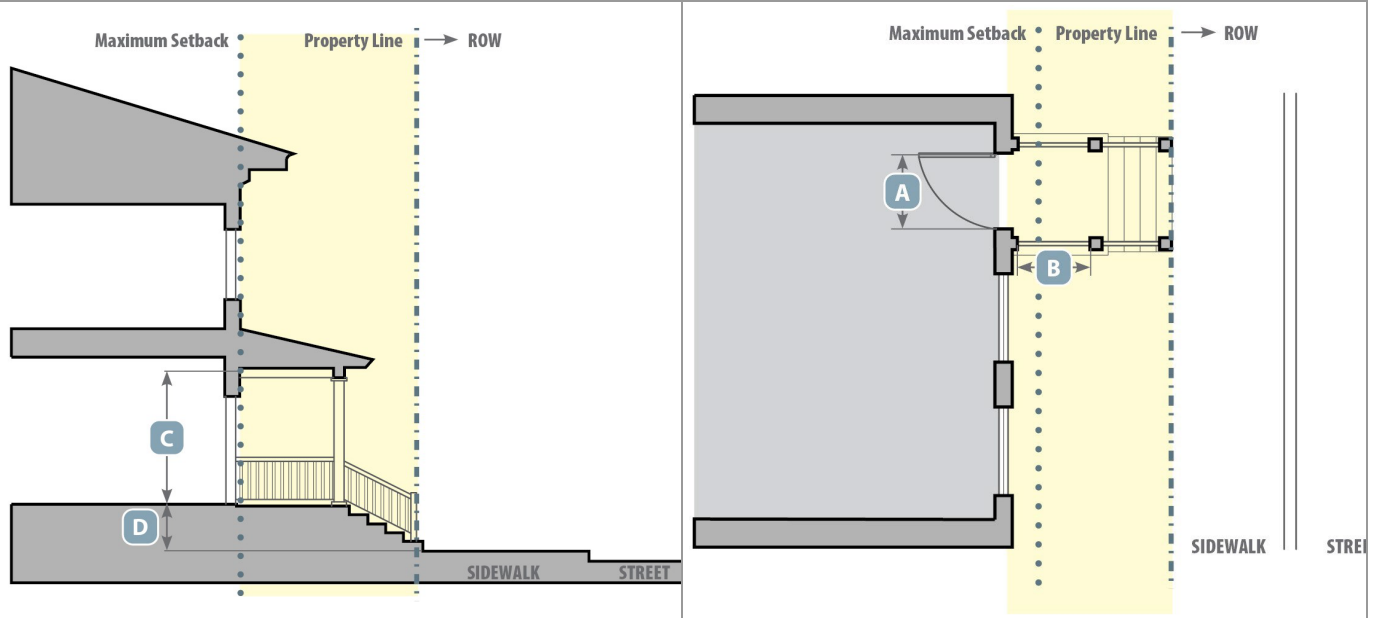
Other Standards

- All porches shall have a roof but they shall not be fully enclosed.
- Open porch bases shall be visually concealed with latticework or similar materials or landscaping.
- A six-foot minimum clear zone for pedestrians shall be maintained on the sidewalk.

Examples



Table 98-395-2, Stoop Frontage Type Standards



Dimensional Standards

A	Width, Clear (minimum / maximum)	5 ft. / 8 ft.
B	Depth, Clear (minimum / maximum)	5 ft. / 8 ft.
C	Stoop Height, Clear (minimum)	8 ft.
	Stoop Height (maximum)	1 story
D	Finish Level Above Sidewalk (minimum)	1.5 ft.

Other Standards

1. Stoops may extend forward of the build-to-zone or setback line.
2. A stoop may have a roof but shall not be full enclosed.
3. A six-foot minimum clear zone for pedestrians shall be maintained on the sidewalk.
4. Stairs may be perpendicular or parallel to the building facade.
5. The entry doors shall be covered or recessed to provide shelter from the elements.

Examples

Table 98-395-2, Stoop Frontage Type Standards



(d) **Nonresidential and Mixed-Use Standards.** These nonresidential and mixed-use standards apply to nonresidential and mixed-use buildings in the DT District.

(1) **Facade Elements.**

- a. The base of the building, as depicted in Figure 98-395-3, *Base, Body, and Cap of Building*, shall constitute a minimum of eight percent of the average building height. The body of the building shall constitute a minimum of 60 percent of the average building height. The cap of the building shall constitute a minimum of eight percent of the average building height.
- b. The base and body of the building shall have a minimum of three of the following features:
 - i. Windows that comply with Paragraph 2, *Windows*, below;
 - ii. Canopies, spandrel panels, decorative brackets, pilasters, cornices and articulated rooflines;
 - iii. Variations in building heights or rooflines;
 - iv. Usable balconies on the body of the building;
 - v. Material changes for different building planes or elements;
 - vi. Accents through the use of moldings, sills, canopies or awnings, extruded window bands, decorative brackets; or
 - vii. Other façade features, such as arcades, breezeways, galleries, oriel or bay windows, pavilions, pergolas, porches, porticos, projecting vestibules or recessed entryways.
- c. The cap of the building shall have a minimum of two of the following features:
 - i. Cornice;
 - ii. Parapet;
 - iii. Awning;
 - iv. Canopy; or
 - v. Eaves

(2) **Windows.**

- a. Ground-floor windows shall non consist of darkened or reflective glass and shall cover a minimum of 70 percent of the length of the facade along Type A Streets and a minimum of 50 percent of

the length of the facade along Type B and C Streets. Upper-story windows shall cover a minimum of 50 percent of the length of the facade.

- b. Windows shall contain trim features designed to accentuate the window frame such as:
 - i. Window sills;
 - ii. Shutters;
 - iii. Projecting sills;
 - iv. Lintels;
 - v. Arched tops; or
 - vi. Moulding.

(3) *Building Form and Detailing.*

a. *Building Size, Shape and Height.*

- i. No single building shall exceed 100 feet in width.
- ii. Insets or projections of at least two feet deep and 10 feet in length shall extend the full height of a building for every 40 feet in building length or width.

b. *Awnings, Canopies, and Arcades*

- i. All principal-street facing building elevations shall be equipped with either awnings above the first floor, or recessed ground floor arcades extending the full length of the building. Arcades must be indented at least four feet back from the main façade plane (4-foot overhang). All awnings must be constructed of durable materials, be non-retractable, and be permanently affixed to the façade surface.
- ii. Awnings and canopies shall not extend more than five feet from the façade of the building.
- iii. Awnings and canopies shall be attached to the building façade and shall not extend vertical support structures into the ground plane.
- iv. Awnings and canopies shall maintain a minimum of eight feet of vertical clearance from the ground plane.
- v. The Director of Public Works may permit, by recorded license agreement, encroachments into the public right-of-way if the encroachment:
 - (A) Does not extend more than four feet into the right-of-way and has an elevation of at least eight feet above grade;
 - (B) The encroachment does not impact the general functionality of the public sidewalk;
 - (C) The encroachment does not make the sidewalk noncompliant with the requirements of the Americans with Disabilities Act (ADA); and
 - (D) The encroachment does not create unsafe clearances from other elements of the right-of-way (e.g., street lighting, landscaping, vehicular movement, etc.).

(4) *Entryways.*

- a. Each building shall have a clearly visible entrance with either an overhang, recess or projection over the door or another design element approved by the Director.
- b. Doorways adjacent to a public right-of-way shall be set back so that doors do not swing into a right-of-way.

(5) *One-Story Buildings.*

- a. Along Type A Streets, all nonresidential and mixed-use buildings over 4,000 square feet in gross floor area or with any building facade that is greater than 100 feet in length that do not already have a habitable second story shall have a false second story that complies with the minimum and maximum height limit for the zoning district, as illustrated in Figure 98-395-4, *False Second Story*, and that has a minimum of three of the following design elements:
 - i. Transparent or opaque windows in the mid-section of the facade;
 - ii. Clerestory windows in the upper-section of the facade;
 - iii. Shading devices such as shutters or canopies;
 - iv. Varied rooflines and parapet heights;
 - v. Changes in materials;
 - vi. Corner elements;
 - vii. Juliet balconies; or
 - viii. Other features that the Director approves.
 - b. The false second story is not required to be under-roof or habitable but the facade shall extend a minimum of eight feet above a typical first story to allow the addition of elements described in 4.a above and create the appearance of a second story. Buildings with three tenants or more may include single-story segments for a maximum of 30 percent of the facade to create diversity in the building height. A specific minimum building height is not required.
- (6) *Drive-In and Drive-Through Facilities.* Drive-in and drive-through facilities are prohibited.
- (7) *Outdoor Display of Merchandise.*
- a. *Where Permitted.* Outdoor displays of merchandise are permitted in the DT district.
 - b. *Associated Use.* The outdoor display area shall only involve items for sale by a business located within a permanent structure or a designated area on the same site.
 - c. *Location.* Outdoor display areas shall be located in the buildable area of the site formed by the required setbacks and shall not be more than 50% of the storefront.
 - d. *Area of Display.*
 - i. *Automotive Sales, Leasing, and Rental.* Customary passenger vehicles, trailers, recreational vehicles, motor vehicles, and other motorized machinery and equipment for sale or lease may be displayed on an unlimited basis outside a building on a paved, all-weather display area or lot, provided that the display area shall not be placed within a required parking setback area and shall not reduce the capacity of a parking lot below that required by Article IV,, Off-Street Parking Requirements for the use.
 - ii. *All Other Uses.* The total area of the outdoor display shall not exceed 15% of the gross floor area of the principal building.
 - e. *Attached to Principal Building.* An outdoor display area that is attached to a principal building shall be:
 - i. Directly adjacent to a wall of a principal structure;
 - ii. Configured as a walled and/or decoratively fenced area that is architecturally integrated into the principal structure;
 - iii. If covered, the display area shall be covered with a roof structure that is architecturally integrated into the principal building, except that nursery areas may be covered by

greenhouse roofing, screening, or another cover material that is appropriate for protecting plant stock; and

- iv. Not located in areas that are required or used for parking, loading, or vehicular circulation.

Figure 98-395-3, Base, Body, and Cap of Building



Figure Notes:
 A = Building Base | B = Building Body | C = Building Cap

Figure 98-395-4, False Second Story



Figure Notes:
 A = Windows in Mid-section of Facade | B = Clerestory Windows | C = Shading Devices | D = Varied Rooflines and Parapet Heights | E = Change in Materials

Sec. 98-395—98-424. Reserved

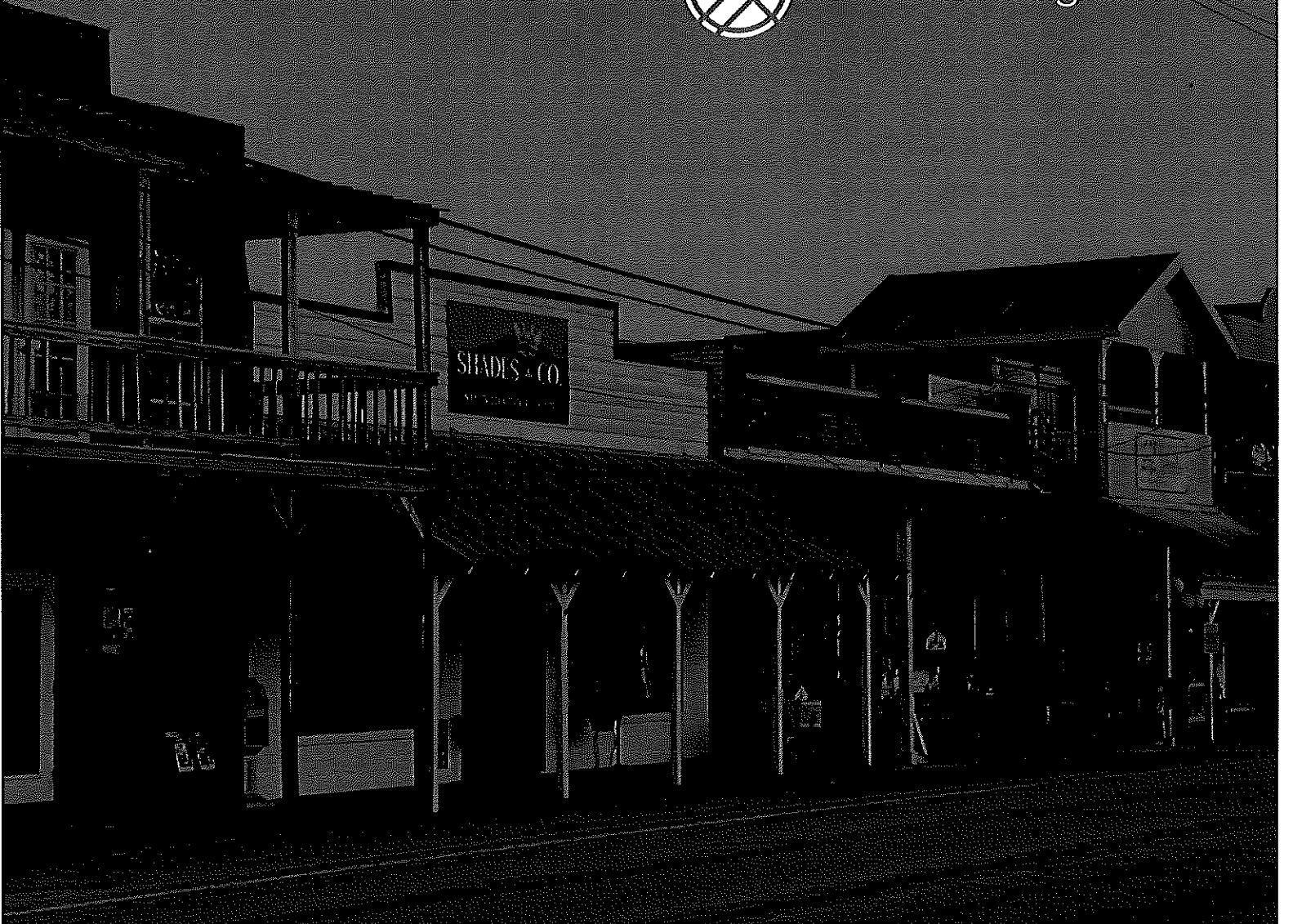
ARTICLE IX. TREE PRESERVATION

Sec. 98-425. General Tree Preservation Provisions

All land prior to and during development shall comply with the tree preservation standards located in [ARTICLE VII. TREE PRESERVATION AND REPLACEMENT](#) of [Chapter 78, SUBDIVISIONS](#).



retail strategies



PARTNERSHIP UPDATE

Montgomery TEXAS

December 2024



retail strategies



PARTNERSHIP UPDATE

Retail Recruitment

TEAM

December 2024



retail strategies

Year 1 Partnership Update

December 2024

****IMPORTANT NOTE****

Maintaining confidentiality is critical to ensuring that you have a successful partnership. Over the past 20 years, Retail Strategies has built trust-based relationships with brand representatives, real estate directors, tenant representatives, etc., and ensuring that conversations remain confidential is a major component of those relationships. We appreciate your help in maintaining those relationships so we can best represent your community.

Retail Strategies values transparency and clear communication. We communicate regularly with our clients and strive to build trust-based relationships and treat them as true partners. However, some information related to the Retail Recruitment team is not intended for public distribution. It is important that detailed information about specific brands and properties remains confidential and not distributed to the MEDC board, city council, or other external parties. For that reason, the following update from the Retail Recruitment team is redacted version that removes specific names of brands and personal contacts. Rather than a specific brand name you will see terms such as "Gym User" or "Fast Casual Pizza User."

Once new Points of Contact are established, those members will receive un-redacted updates via Basecamp on a regular basis so they are aware of the discussions being had by our team.



Montgomery, TX Confidential Recruitment Update

Retail Recruitment Update

Current Interest & Ongoing Conversations

Travel Center: [REDACTED] let us know there is heavy interest in the Montgomery market, they would love to be positioned near a major highway, and we sent over information on demographics, and they are looking into the market for major corridors that are a good fit.

Gym User: [REDACTED], Real Estate Manager touched on the rapidly expanding fitness center, with Franchisee's eager to review spaces from 18,000-45,000 SF, in free standing or regional & neighborhood shopping centers. [REDACTED] earmarked Montgomery for further review in 2025, requesting all information on upcoming strip development, our team did provide information on the vacancies at the Buffalo Springs Shopping center.

Hotel User: [REDACTED] let us know there is interest in the Montgomery area and would love to set up a time sometime in early 2025 to speak with the City of Montgomery and tour the area for potential opportunities. [REDACTED] will be attending Red River in January and is open to scheduling a time to meet with any contacts from the City or EDC in Montgomery who are interested.

Full Service Mexican Restaurant: [REDACTED] told our team the Montgomery area remains an area of interest for their team. They are working on establishing their 2025 strategy and requested our team plan to sit down to discuss further at Red River in January.

Fast Food User: Our team has been following up with [REDACTED] to see what their groups expansion strategy is, when we spoke with [REDACTED] at ICSC Las Vegas he let us know there was interest in growth in tertiary markets around Houston and Austin. We have submitted over sites for review and are working to get in front of [REDACTED] and his team next month at ICSC Red River.

Montgomery, TX
Madison Neal
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Montgomery, TX

Confidential Recruitment Update

Retail Recruitment Update

Current Interest & Ongoing Conversations

General Merchandise/Discount: Our team reached out to follow up on areas of interest, in past conversations with the brand they were interested in all vacancies in shopping strips. We submitted the Buffalo Springs Shopping center for review. We haven't had much luck reaching anyone for feedback, however we do have plans to follow up with their Houston broker who requested we touch base in January.

Fast Casual Pizza User: We spoke with [REDACTED], and he let us know they are reviewing the area for a [REDACTED], they are wrapping up several deals in east Texas and with the partnership with [REDACTED] moving quickly they will touch base with our team at Red River in January. [REDACTED] wanted to note, he and his team are very excited about Montgomery. He is very familiar with the market, and they have an operator eager to identify a site.

Fast Casual Salad User: Currently, their Real Estate team spoke with us and let us know that they are not in expansion mode and anticipate that changing in the future advising we check back in 6-12 months.

Fast Casual Sandwich User: [REDACTED], Real Estate Director with GoToFood's let us know Montgomery is of interest for their brand, they have considered it for a combo store however they don't have a Franchisee for this area. She asked us to check back in January and we can revisit the market, they have a franchisee acquiring rights that could include expansion opportunities.

Our team has also begun preparation for the upcoming ICSC Red River show in Dallas at the of January. This Conference will provide us with the opportunity to get in front of many retail prospects for the Montgomery area, including some that we have not been able to provide feedback from. Once that show is finished, we will provide a comprehensive report on any conversations that were had regarding Montgomery and any follow ups that need to be addressed.

Montgomery, TX
 Madison Neal
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downtown strategies



PARTNERSHIP UPDATE

Downtown Strategies

TEAM

December 2024



The atmosphere is so different now. Stores are open consistently, the Merchants' Association is organized and active, and the different entities are collaborating and joining together to enhance the square."

Mayor Stephanie Ducheneaux
Snyder, Texas

Downtown Strategies Partner:
November 2021-November 2024



downtown strategies

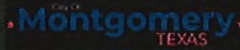
Partnership Timeline: Year 1



- Contract Signed: August 20, 2024
- Kick-off Call: September 10, 2024
- Discovery Phase: August 2024-January 2025
- Market Visit & Workshop: November 13, 2024
- Market Analysis Presentation: January 2025
- Development Phase: December 2024-March 2025
- Strategic Plan Presentation: March 2025
- Deliverable Finalized: April 2025
- Implementation Support: May-July 2025

Partnership Overview

Montgomery, Texas



WHO WE ARE AT A GLANCE

Downtown Strategies, a division of Retail Strategies, exists to provide realistic, implementable strategies to communities for revitalizing their downtowns.

Led by a team of downtown revitalization practitioners and real estate experts, our combination of real-world experience, plus expertise in real estate and retail uniquely qualify us to assist communities with backfilling vacancies, increasing tourism, and enhancing the sense of place in their downtowns.

OUR VISIT AT A GLANCE

A leader from our team will visit Montgomery, meet with the core team, participate in a walking tour, and facilitate a stakeholder input session.



Date: Wednesday - November 13, 2024
Time: 6:00-7:30 PM
Location: City of Montgomery Community Building

This input session allows property owners, business leaders, and the greater community to participate in imagining what the downtown can become in the next five years.

RSVP Here



OUR PLAN AT A GLANCE

The heart of our process is the creation of the custom 5-Year Strategic Action Plan.

- 5-year bite-sized timeframe
- Outlines what you should do, not everything you could do
- Focuses on practical, small-scale strategies rather than big dreams and visions
- Outlines 20-30 strategies/recommendations, not a list of 200+ ideas
- Includes an implementation matrix that details the order & investment required for the successful implementation of each strategy & focus area.

FOCUS AREAS AT A GLANCE



Policy & Administration

Sets the foundation for the change you want to see. Guiding future change typically involves a balance of "carrots" and "sticks."

"Carrots"

Incentive programs designed to spark private investment

"Sticks"

Policies & codes that direct and guide private development



Design

Rather than master plan drawings and renderings, we highlight short-term interventions that can be made to improve the aesthetics, walkability, and overall vibrancy of the downtown area.

We must create a comfortable and inviting place for people.



Tourism & Promotion

Tourism is about connecting the dots between visitors and the downtown businesses and attractions. It is about creating a unique and authentic experience for visitors.

We must constantly invite people into the downtown area through festivals and events, small-scale promotions, and marketing efforts.

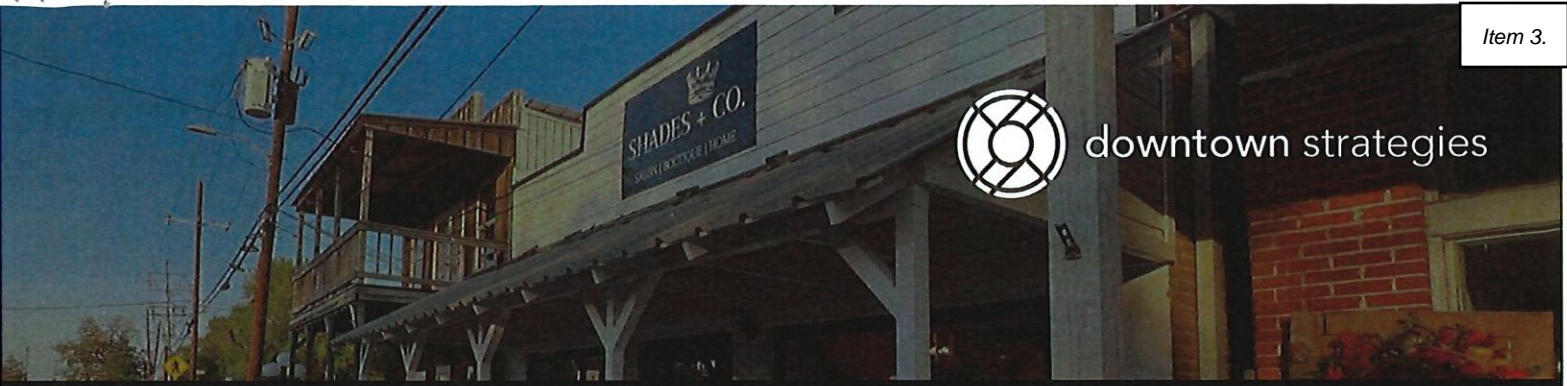


Economic Vitality

A key component of downtown revitalization efforts is assisting the private sector and arming them with the tools necessary to compete in the current economy.

- How do we get higher and better use out of our downtown properties?
- What programs can we use to attract new entrepreneurs and startups?





Year 1 Partnership Update

December 2024

1. Discovery Phase (August 2024 – January 2025)

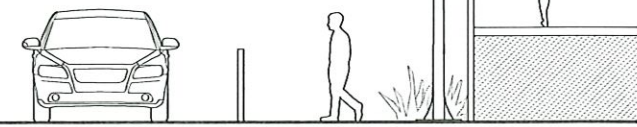
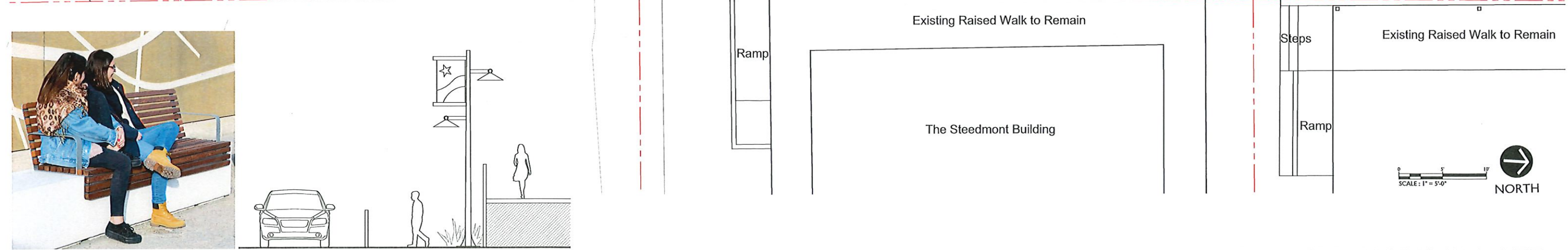
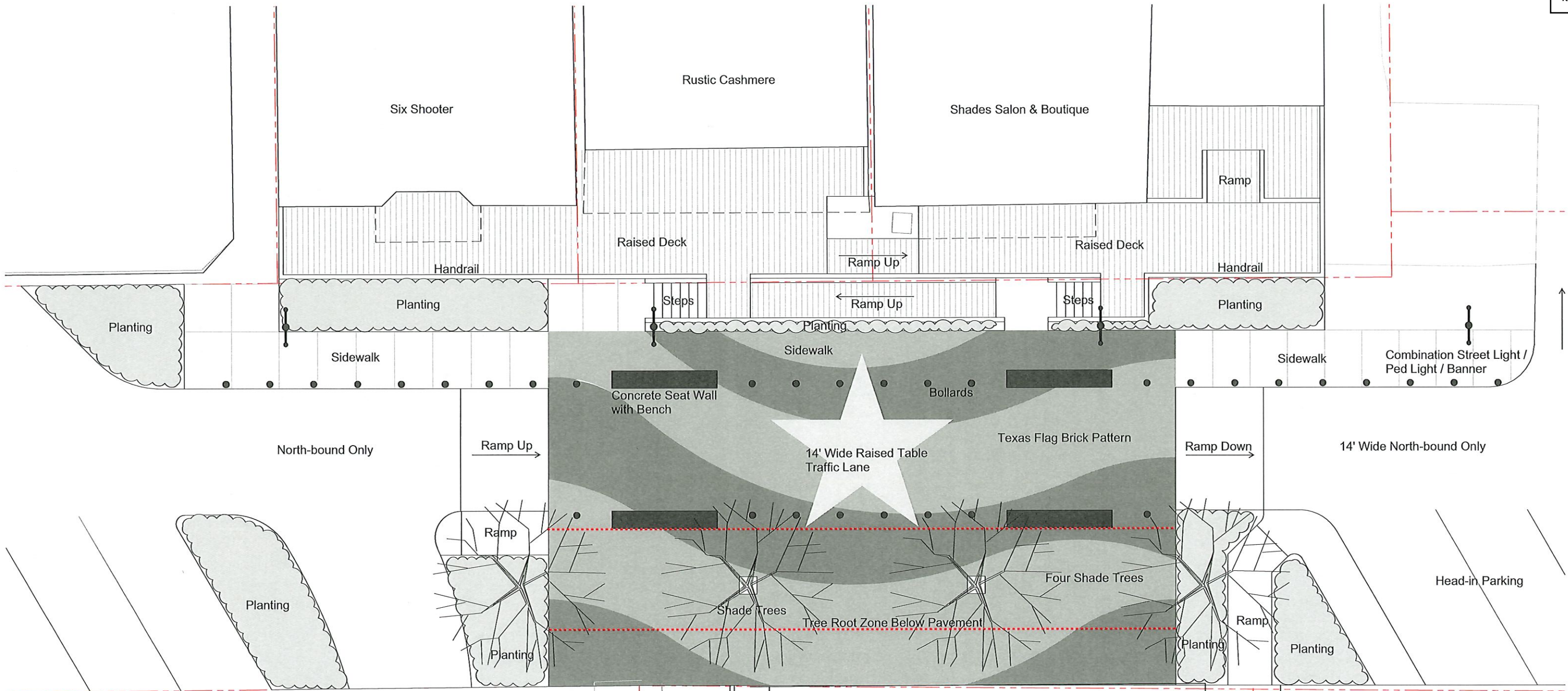
- Focused on gathering information about the existing conditions in Downtown Montgomery. This includes existing plans, information about the community, current challenges, planned projects, and retail market data analysis.
- **Tasks Completed:**
 - **Kickoff Call: September 10, 2024**
 - Virtual presentation to Gary and Dave to provide an overview of our approach to downtown revitalization, our process, and the partnership timeline.
 - **Kendig Keast Collaborative Meeting: October 29, 2024**
 - One of our team members had a call with Kendig Keast Collaborative, the planning firm leading the land use code update to ensure that both of our teams are on the same page and not duplicating efforts.
 - **Strategic Visioning Workshop: November 13, 2024**
 - This is the major milestone of the Discovery Phase. Downtown Strategies team member, Jeremy Murdock, conducted an in-market visit to Montgomery. The workshop included three components.
 - Internal Meeting: a meeting with Gary and Jeff to discuss current conditions
 - Walking Tour: Jeremy was led on a walking tour of the downtown district to assess the physical condition of the district, discuss key properties, interact with stakeholders, etc.
 - Stakeholder Input Session: Jeremy facilitated a public input meeting that focused on providing an overview of Downtown Strategies, sharing our approach to downtown revitalization, and gathering input and feedback from downtown stakeholders.
 - Meeting was attended by approximately 20 people including elected officials, MEDC board members, property owners, business owners, and a very engaged high school student.

2. Strategic Planning Phase (February – April 2025)

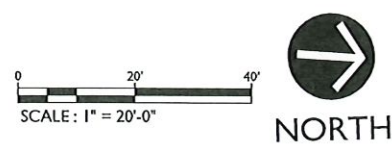
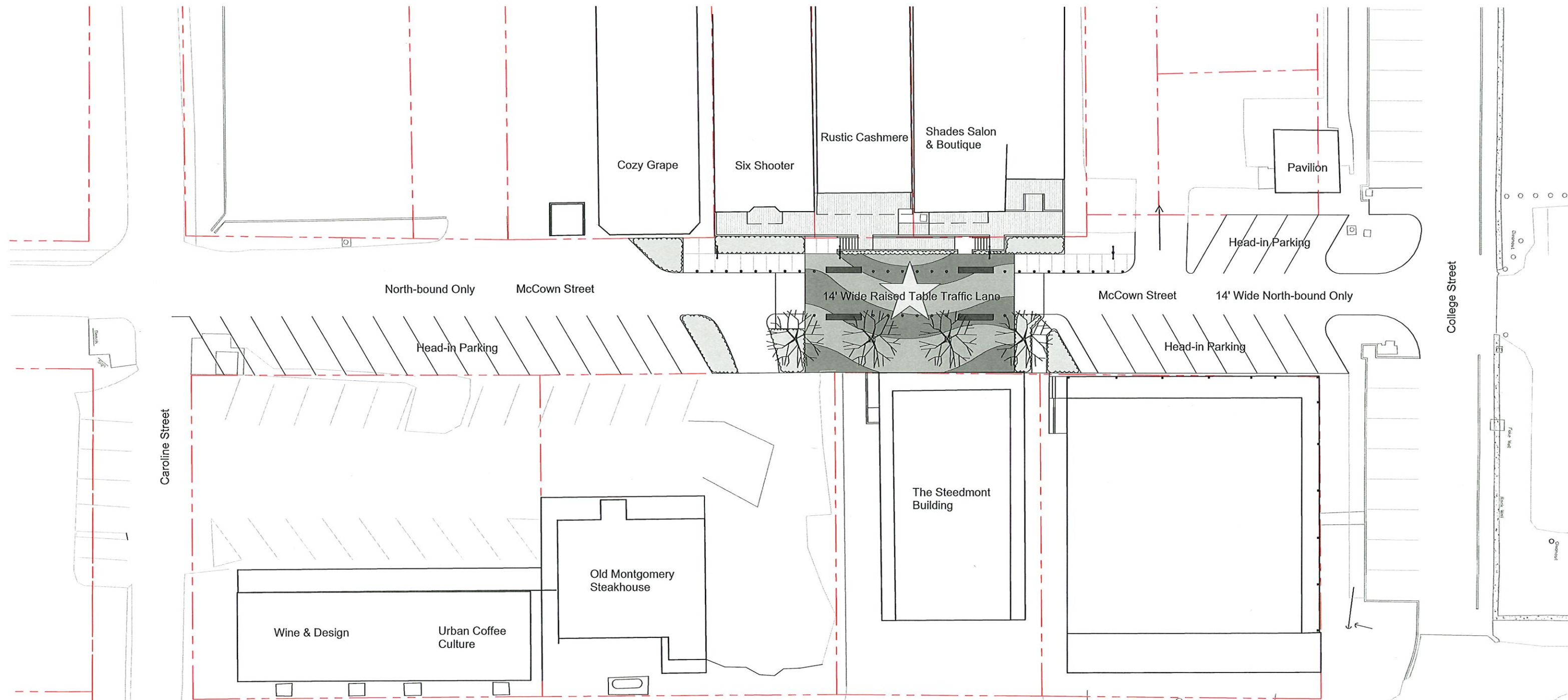
- Our team will use the input gathered through the Discovery Phase to create a 5-year Strategic Action Plan for Downtown Montgomery.
- The first draft of the plan will be presented to the Core Team in March 2025 and finalized by April 2025.

3. Implementation Jumpstart (May – July 2025)

- We finish Year 1 by immediately shifting to the implementation of the plan. We will work with the Core Team to identify an initiative from the Strategic Action Plan to implement and get a "jumpstart" on putting the plan into action.
- This will also include establishing an Action Team, which could be a group of volunteers, an existing committee, or other group. Downtown Strategies will provide support and assistance to the Action Team as they lead a short-term project to enhance Downtown Montgomery.



McCOWN STREETScape IMPROVEMENTS UPDATE



McCOWN STREETSCAPE IMPROVEMENTS UPDATE



MONTGOMERY ECONOMIC DEVELOPMENT CORPORATION

1/21/2025